



**PONTIAC CITY COUNCIL
STUDY SESSION
December 7, 2017
6:00 p.m.
218th Session of the 9th Council**

It is this Council's mission "To serve the citizens of Pontiac by committing to help provide an enhanced quality of life for its residents, fostering the vision of a family-friendly community that is a great place to live, work and play."

Call to order

Roll Call

Authorization to excuse councilmembers

Amendments to and Approve the Agenda

Approval of the Minutes

1. November 30, 2017

Public Hearing – Amendment of TIFA district boundaries and the establishment of a Brownfield District.

2. Resolution for the removal of parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041 from the boundaries of the TIFA and the establishment of a Brownfield District for parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041.
3. Resolution requesting the Oakland County Brownfield Redevelopment Authority to review the United Shore Redevelopment Project.
4. Resolution Concurring with the Provisions of a Brownfield Plan adopted by the Oakland County Brownfield Redevelopment Authority for the United Shore Redevelopment Project.

Public Comment

Agenda Items for Consideration.

5. Request approving City of Pontiac Sewer Use Ordinance as recommended by the Water Resource Commission.
6. Resolution to amend Wade Trim Agreement for Planning Services.
7. Resolution to amend Wade Trim Agreement for Code Enforcement.
8. Resolution to amend Wade Trim Agreement for Building Safety.
9. Resolution for the 2018 No-Haz Agreement.
10. Resolution for North Saginaw Road Cost Sharing Agreement.
11. Approval of the Amended Parking Ordinance.

Adjournment

November 30, 2017

**Official Proceedings
Pontiac City Council
217th Session of the Ninth Council**

A Formal Meeting of the City Council of Pontiac, Michigan was called to order in City Hall, Thursday, November 30, 2017 at 6:00 p.m. by President Patrice Waterman.

Call to Order at 6:00 p.m.

Invocation – Pastor Lapage

Pledge of Allegiance

Roll Call

Members Present: Carter, Pietila, Taylor-Burks, Waterman, Williams and Woodward.

Members Absent: Holland.

Clerk announced a quorum.

17-357 **Excuse Councilperson Mark Holland for personal reasons.** Moved by Councilperson Pietila and supported by Councilperson Taylor-Burks.

Ayes: Pietila, Taylor-Burks, Waterman, Williams, Woodward and Carter.

No: None

17-358 **Approval of the Agenda with a resolution for temporary salary increase for the clerk's office.** Moved by Councilperson Pietila and supported by Councilperson Taylor-Burks.

Ayes: Pietila, Taylor-Burks, Waterman, Williams, Woodward and Carter.

No: None

Motion Carried.

17-359 **Journal of November 20, 2017.** Moved by Councilperson Taylor-Burks and supported by Councilperson Pietila.

Ayes: Taylor-Burks, Waterman, Williams, Woodward, Carter and Pietila.

No: None

Motion Carried.

Special Presentation – Meghan Noland on medical marijuana

Deputy Mayor Report or Departmental Head Report – Mayor Waterman and Jane Bais-DiSessa

Councilman Mark Holland arrived at 6:15 p.m.

Agenda Address – Billie Swazer

17-360 **Resolution for Larry Carnell Rodges.** Moved by Councilperson Williams and supported by Councilperson Carter.

November 30, 2017

Whereas, it is the sense of this legislative body to pay proper tribute to individuals of remarkable character and whose lives have been dedicated to uplifting and inspiring the community; and;
Whereas, it is feelings of the deepest regret that the Pontiac City Council mourns the passing of Larry Carnell Rodges, a giving and devoted member of this community; and,
Whereas, Larry Carnell Rodges was born on September 3, 1957 in Pontiac, Michigan, was the son of the late L.E. Rodges and Minnie B. Rodges, loving husband of 34 years to Teresa Ann Rodges and the father of Kerry Dwayne Howard; and,
Whereas, Larry Carnell Rodges, a loyal employee with professional integrity, retired from General Motors; and,
Whereas, Larry Carnell Rodges propelled by an entrepreneurial spirit in 2005, graciously accepted the torch and continued to operate the family business, Rodges Landscaping and Lawn Service; and,
Whereas, Larry Carnell Rodges was baptized at an early age at Antioch Missionary Baptist Church and later attended Emmanuel Baptist Church; and,
Whereas, Larry Carnell Rodges had many hobbies including, traveling, landscaping, spending time with family and friends, riding his motorcycle with the Pontiac Masters and cheering on his favorite NFL team, the "Dallas Cowboys."
Now, Therefore Be It Resolved, that the Members of the Pontiac City Council and members of this great community will greatly miss Larry Carnell Rodges, as his kindhearted soul will long endure the passage of time and will remain as a comforting memory to all those whose lives he touched; we give our sincerest condolences to the family and friends of Larry Carnell Rodges.

Ayes: Waterman, Williams, Woodward, Carter, Holland, Pietila and Taylor-Burks

No: None

Resolution Passed.

17-361 **Resolution for Gayle J. Ogg.** Moved by Councilperson Williams and supported by Councilperson Carter.

Whereas, It is the sense of this legislative body to pay proper tribute to individuals of remarkable character and whose lives have been dedicated to uplifting, inspiring and empowering the community; and;
Whereas, it is feelings of the deepest regret that the Pontiac City Council mourns the passing of Gayle J. Ogg, a giving and devoted member of this community; and,
Whereas, Gayle J. Ogg was born on May 11, 1936, was the wife of the late Donald Ogg and mother of Laurie, Kevin, Steve and April; and,
Whereas, Gayle J. Ogg, a successful entrepreneur, owned and operated Collection Service Bureau for many years; and,
Whereas, Gayle J. Ogg provided an unwavering amount of selflessness and commitment to our community; and,
Whereas, Gayle J. Ogg and her late husband were distinguished by their immeasurable contributions to the City of Pontiac and were therefore affectionately bestowed with the name, "Mr. & Mrs. Pontiac 2005"; and,
Whereas, Gayle J. Ogg was a life member of the Waterford ELKS 810, was actively involved in organizing the Dream Cruise, the Super Bowl when it was at the Silverdome and the World Cup Soccer events for Pontiac.
Now, Therefore Be It Resolved, that the members of the Pontiac City Council and members of this great community will greatly miss Gayle J. Ogg, as her life was a portrait of service, a legacy which will long endure the passage of time and will remain as a comforting memory to all those whose lives she touched; we give our sincerest condolences to the family and friends of Gayle J. Ogg.

Ayes: Waterman, Williams, Woodward, Carter, Holland, Pietila and Taylor-Burks

No: None

Resolution Passed.

17-362 **Resolution for “Junior Grand Marshal” Dakota Passage.** Moved by Councilperson Williams and supported by Councilperson Carter.

Whereas, It is the sense of this legislative body to honor an outstanding, young adult of remarkable character, who is inspirational and who serves as a role-model to others; and,
Whereas, Dakota Passage has the unique distinction and privilege of representing the City of Pontiac as the 2017 Junior Grand Marshal and is the winner of the Fran Anderson Making a Difference Scholarship; and,
Whereas, Dakota Passage is a Pontiac resident and attends International Technology Academy; and,
Whereas, Dakota Passage is an exceptional student who has a passion for success and a love of learning; and,

Whereas, Dakota Passage has received numerous awards including, All A Honor Roll, Student of the Month, recipient of the High School Science Award, Team Robotics Awards, Second Language Learner Award, Professionalism Award, STEM Superstar Award, National Honors Society inductee, Perfect Attendance, and the Wade H. McCree Jr. Incentive Scholarship; and,

Whereas, Dakota Passage belongs to several organizations, Robotics, Project Upward Bound, National Honors Society and Oakland Schools Technical Campus-Northeast; and,

Whereas, Dakota Passage loves skateboarding and video and photo editing; and,

Whereas, Dakota Passage has provided contributions of leadership, selflessness and commitment to our community through creating lap blankets and handouts for seniors on Valentine’s Day, participation with the Thanksgiving food drive with Lighthouse of Oakland County and providing winter wear donations to human service agencies for Christmas.

Now, Therefore Be It Resolved, that the Pontiac City Council, and members of this great community, honor and salute the personal accomplishments and achievements of Junior Grand Marshal, Dakota Passage for a job well done and for truly, representing the City of Pontiac. Congratulations.

Ayes: Waterman, Williams, Woodward, Carter, Holland, Pietila and Taylor-Burks

No: None

Resolution Passed.

17-363 **Resolution for temporary salary increase for the Clerk’s Office.** Moved by Councilperson Williams and supported by Councilperson Carter.

Whereas, the City Clerk resigned effective November 20, 2017 at 5:00 p.m.; and,

Whereas, a vacancy for the appointed Clerk’s position has been created; and,

Whereas, until the vacancy is filled, Sheila Grandison is appointed as the Interim / Acting City Clerk; and,

Whereas, in the absent a City Clerk, additional duties and job responsibilities are imposed on the employees in the Clerk’s office, Sheila Grandison and Annette Wesley.

NOW THEREFORE BE IT RESOLVED that the Pontiac City Council does hereby approve a temporary salary increase (until the Clerk’s position is filled) for the employees in the Clerk’s office, Sheila Grandison \$62,000 annually and Annette Wesley, \$24.04 per hour, effective November 21, 2017.

Ayes: Waterman, Williams, Woodward, Carter, Holland, Pietila and Taylor-Burks

No: None

Resolution Passed.

November 30, 2017

17-364 **Defer for one week the request for approving City of Pontiac Sewer Use Ordinance as recommended by the Water Resource Commission.** Moved by Councilperson Woodward and supported by Councilperson Carter.

Ayes: Williams, Woodward, Carter, Holland, Pietila, Taylor-Burks and Waterman

No: None

Motion Carried.

17-365 **Resolution request approving the zoning map amendment from the Planning Commission to rezone parcel #64-14-29-457-005. (120 Pike Street)** Moved by Councilperson Woodward and supported by Councilperson Williams.

Whereas, the City has received an application for a Zoning Map Amendment from the Service Glass Company, located at 120 W. Pike S., Pontiac, MI 48341. The request being to rezone parcel (64-14-29-457-005) located at the southwest corner of Front Street and West Pike Street, from the current R-3 Multiple Family Dwelling District to P-1 Parking District.

Whereas, the Planning Department has reviewed the applicants rezoning request and the requirements set forth by Section 6.804 of the Zoning Ordinance. The Planning Department has determined the aforementioned request and proposed intended use of the property to comply with the City of Pontiac Zoning Ordinance.

Whereas, In accordance with the procedure outlined in the Zoning Ordinance, Sections 6.802 as it relates to Zoning Map Amendments. The Zoning Amendment request has undergone the required; Technical Review, Public Hearing, and Planning Commission Recommendation.

Whereas, (Code 1985, § 7-39) of the City of Pontiac Municipal Code, before any construction, alternation, repair, moving or demolition affecting the exterior appearance of a historic site or any proposed or existing structure located within a historic district is made and/or which by the terms of the ordinance then in effect requires the taking out of a permit within such a district. If the proposed development requires site plan approval by the city planning commission, the historic district commission shall provide a report of its action to the city's planning and community renewal division for inclusion within the staff report to the city planning commission.

Whereas, on November 8, 2017, a Public Hearing was held, and in consideration of public opinion, the Planning Commission recommends City Council approve the zoning map amendment request of the applicant, Service Glass Company, the rezoning from the current R-3 Multiple Family Dwelling District to P-1 Parking District. Pending the report mentioned above from the Historic District Commission, approving the rezoning of property located within the Historic Zoning District.

Now Therefore, Be It Resolved, that the City Council of the City of Pontiac approve the zoning map amendment (PF 17-19) from Service Glass Company, to change the current zoning from the current R-3 Multiple Family Dwelling District to P-1 Parking District.

Ayes: Woodward, Carter, Pietila, Taylor-Burks, Waterman and Williams

No: None

Resolution Passed.

Holland absent during vote.

17-366 17-365 **Resolution request approving the zoning map amendment from the Planning Commission to rezone parcel #64-14-29-379-014. (14 Williams Street) Moved by Councilperson Williams and supported by Councilperson Pietila.**

Whereas, the City has received an application for a Zoning Map Amendment for 14 Williams Street, Identified as parcel (64-14-29-379-014) from Mark Thomas to rezoning the lot from the current C-O Commercial Office Business District zoning to R-2 Two Family and Terrace Dwelling District

Whereas, the Planning Department has reviewed the applicants rezoning request and the requirements set forth by Section 6.804 of the Zoning Ordinance. The Planning Department has determined the aforementioned request and proposed intended use of the property to comply with the City of Pontiac Zoning Ordinance.

Whereas, In accordance with the procedure outlined in the Zoning Ordinance, Sections 6.802 as it relates to Zoning Map Amendments. The Zoning Amendment request has undergone the required; Technical Review, Public Hearing, and Planning Commission Recommendation.

Whereas, (Code 1985, § 7-39) of the City of Pontiac Municipal Code, before any construction, alternation, repair, moving or demolition affecting the exterior appearance of a historic site or any proposed or existing structure located within a historic district is made and/or which by the terms of the ordinance then in effect requires the taking out of a permit within such a district. If the proposed development requires site plan approval by the city planning commission, the historic district commission shall provide a report of its action to the city's planning and community renewal division for inclusion within the staff report to the city planning commission.

Whereas, on November 8, 2017, a Public Hearing was held, and in consideration of public opinion, the Planning Commission recommends City Council approve the zoning map amendment request for 14 Williams Street to approve the rezoning from C-O Office Business to R-2 Two Family and Terrace Family Dwelling District. Pending the report mentioned above from the Historic District Commission, approving the rezoning of property located within the Historic Zoning District.

Now Therefore, Be It Resolved, that the City Council of the City of Pontiac approve the zoning map amendment (PF 17-16) request at 14 Williams Street, to change the current zoning from C-O Office Business to R-2 Two Family and Terrace Family Dwelling District.

Ayes: Carter, Holland, Pietila, Taylor-Burks, Waterman, Williams and Woodward

No: None

Resolution Passed.

17-367 **Planning Commission request approval from Tarragon partners to rezone approximately southerly nine acres lots 27-90 and lots 112-117 of Pleasantdale Subdivision. (1059 Featherstone) Moved by Councilperson Pietila and supported by Councilperson Taylor-Burks.**

Whereas, the City has received an application for a Zoning Map Amendment from the Tarragon Partners, to rezone parcel (64-14-22-334-010) located south of University Drive and north of Featherstone Street. The applicant has requested the property be rezoned from P-1 parking District to C-3 Corridor Commercial.

Whereas, the Planning Department has reviewed the applicants rezoning request and the requirements set forth by Section 6.804 of the Zoning Ordinance. The Planning Department has

determined the aforementioned request and proposed intended use of the property to comply with the City of Pontiac Zoning Ordinance.

Whereas, In accordance with the procedure outlined in the Zoning Ordinance, Sections 6.802 as it relates to Zoning Map Amendments. The Zoning Amendment request has undergone the required; Technical Review, Public Hearing, and Planning Commission Recommendation.

Whereas, the applicant has agreed to a conditional rezoning process [see Section 6.807] granting City Council to approve a rezoning petition and petitioners conditions. The conditions as follows; Receipt of a C-3 District designation will be dependent upon site plan approval by the Planning Commission; and, the property will convert to the designation of the neighboring residencies if the project does not materialize in the 2 years following the initial rezoning.

Whereas, on November 8, 2017, a Public Hearing was held, and in consideration of public opinion, the Planning Commission recommends City Council approve the zoning map amendment request of the applicant, Tarragon Partners, the conditional rezoning of parcel (64-14-22-334-010) southerly 9-acres from P-1 Parking District to C-3 Corridor Commercial.

Now Therefore, Be It Resolved, that the City Council of the City of Pontiac approve the zoning map amendment (PF 17-21) from Tarragon Partners, the conditional rezoning of parcel (64-14-22-334-010) from P-1 Parking District to C-3 Corridor Commercial.

Ayes: Holland, Pietila, Taylor-Burks, Waterman, Williams, Woodward and Carter

No: None

Resolution Passed.

17-368 Planning Commission request approval from Tarragon partners to rezone approximately northerly two acres lots 91-111 of Pleasantdale Subdivision.

(1059 Featherstone) Moved by Councilperson Williams and supported by Councilperson Taylor-Burks.

Whereas, the City has received an application for a Zoning Map Amendment from the Tarragon Partners, to rezone parcel (64-14-22-334-010) located south of University Drive and north of Featherstone Street. The applicant has requested the property be rezoned from P-1 parking District to C-3 Corridor Commercial.

Whereas, the Planning Department has reviewed the applicants rezoning request and the requirements set forth by Section 6.804 of the Zoning Ordinance. The Planning Department has determined the aforementioned request and proposed intended use of the property to comply with the City of Pontiac Zoning Ordinance.

Whereas, In accordance with the procedure outlined in the Zoning Ordinance, Sections 6.802 as it relates to Zoning Map Amendments. The Zoning Amendment request has undergone the required; Technical Review, Public Hearing, and Planning Commission Recommendation.

Whereas, on November 8, 2017, a Public Hearing was held, and in consideration of public opinion, the Planning Commission recommends City Council approve the zoning map amendment request of the applicant, Tarragon Partners, the conditional rezoning of parcel (64-14-22-334-010) northerly 2-acres from P-1 Parking District to C-3 Corridor Commercial.

Now Therefore, Be It Resolved, that the City Council of the City of Pontiac approve the zoning map amendment (PF 17-22) from Tarragon Partners, the conditional rezoning of parcel (64-14-22-334-010) from P-1 Parking District to C-3 Corridor Commercial.

Ayes: Carter, Holland, Pietila, Taylor-Burks, Waterman, Williams and Woodward

No: None

November 30, 2017

Resolution Passed.

17-369 **Resolution to consider authorizing the Mayor to reinstate the City's Planning Functions.** Moved by Councilperson Williams and supported by Taylor-Burks.

Whereas, the contract for Planning service from Wade Trim is scheduled to expire on December 31, 2017; and

Whereas, based on the financial study conducted by the City's Finance Director dated October 2, 2017 finds and supports the feasibility of reinstating the City's Planning function; and

Whereas, the Executive Staff concurs with the Finance Director's recommendation and believes that the Planning function for the City of Pontiac is an essential service to achieve sustainable development; and

Whereas, the insourcing of the Planning function will not require additional funds to be appropriated, and it is fully supported with the current budget allocation; and

Whereas, the reinstatement of the Planning function will help to guide the present and future growth of the City of Pontiac by striking a careful balance between residential, commercial, recreational, and institutional needs; and

Whereas, the reinstatement of the Planning function will ensure that the City's Ordinances are current and maintained as they relate to zoning, building codes, environmental regulations and other important legal issues; and

Whereas, the reinstatement of the Planning function will have a positive impact on the City's budget through the development of key infrastructure development.

Now, Therefore Be It Resolved, that the Pontiac City Council authorizes the Mayor to reinstate the City's Planning function and that the following full-time positions be created and funded at the following annual salary ranges: Planning Manager (\$80,000 to \$85,000), Planner (\$63,000 to \$68,000), and Customer Service Representative (\$28,280 to \$33,280).

Ayes: Holland, Pietila, Taylor-Burks, Waterman, Williams, and Woodward

No: Carter

Resolution Passed.

17-370 **Defer until more information is available to amend Wade Trim Agreement and authorize Executive office to sign.** Moved by Councilperson Williams and supported by Councilperson Pietila.

Ayes: Pietila, Taylor-Burks, Waterman, Williams, Woodward, Carter and Holland

No: None

Motion Carried.

Councilman Don Woodward left meeting at 7:57 p.m.

17-371 **Council schedule public hearing for the 2018 Community Development Block Grant (CDBG) Program.** Moved by Councilperson Pietila and supported by Councilperson Holland.

November 30, 2017

Resolved, that the Pontiac City Council schedules a public hearing on the Community Development Block Grant Application for Program Year 2018 on December 14, 2017 at 6:00 p.m. at their regular Council Meeting.

Ayes: Taylor-Burks, Waterman, Williams, Carter, Holland and Pietila

No: None

Motion Carried.

Councilman Mark Holland left at 8:10 p.m.

There were 11 individuals who addressed the body during public comment.

Honorable Mayor Deirdre Waterman Reported

Councilwoman Taylor-Burks, Councilman Randy Carter, Councilman Kermit Williams, Pro-Tem Mary Pietila and President Patrice Waterman made closing comments. Acting City Clerk Sheila Grandison and Attorney Anthony Chubb had no closing comments.

President Patrice Waterman adjourned the meeting at 9:32 p.m.

SHEILA GRANDISON
ACTING CITY CLERK

Memorandum

To: Honorable Mayor, Council President and City Council Members

From: Garland S. Doyle, M.P.A., CNP, Deputy Director, Community Development Department

Thru: Jane Bais-DiSessa, Deputy Mayor

Date: December 1, 2017

Re: Amendment of Tax Increment Finance Authority (TIFA) district boundaries and the establishment of a Brownfield district

Cc: Rachel Loughrin, Economic Development Director
Nevrus Nazarko, Finance Director

On October 26, 2017, the City Council approved the scheduling of a public hearing for December 7, 2017 to remove parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041 from the boundaries of the Tax Increment Finance Authority and to establish a Brownfield District for parcels 14-34-351-006, 14-34-351-007, 14-34-380-041 and 14-34-380-043.

This hearing is for the proposed United Shore Redevelopment at 585-701 East South Boulevard. United Shore is investing \$69 million in the extensive renovation of the former Hewlett Packard office building and surrounding property for reuse as its corporate headquarters. They are relocating their headquarters and 2,150 employees from Troy to the South Boulevard site. Because of their expansion, United Shore estimates their workforce will increase by an additional 600 new full-time employees. The brownfield plan is attached.

We are requesting that the City Council adopt the following three resolutions after the public hearing.

1. Resolution for the removal of parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041 from the boundaries of the Tax Increment Finance Authority and the establishment of a Brownfield District for parcels 14-34-351-006, 14-34-351-007, 14-34-380-041 and 14-34-380-043
2. Resolution Requesting the Oakland County Brownfield Redevelopment Authority to Review the United Shore Redevelopment Project
3. Resolution Concurring with the Provisions of a Brownfield Plan Adopted by the Oakland County Brownfield Redevelopment Authority for the United Shore Redevelopment Project

Resolution for the removal of parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041 from the boundaries of the Tax Increment Finance Authority and the establishment of a Brownfield District for parcels 14-34-351-006, 14-34-351-007, 14-34-380-041 and 14-34-380-043

WHEREAS, the Pontiac City Council held a public hearing during its regular scheduled City Council meeting at 6:00 P.M. on Thursday, December 7, 2017 in Pontiac City Hall, City Council Chambers, 47450 Woodward Ave., for the purpose of receiving public comment on the proposal to remove from the boundaries of the Tax Increment Finance Authority parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041.

Parcel 14-34-351-006:

T3N, R10E, SEC 34 SOUTH PARK PART OF LOT 12, ALSO ALL OF LOTS 13 TO 104 INCL, ALSO PART OF LOTS 105, 106 & 107, ALSO PART OF LOTS 111 & 112, ALSO ALL OF LOTS 113 TO 186 INCL, ALSO PART OF LOT 187, ALSO ALL OF LOTS 188 TO 320 INCL, ALSO LOTS 322 TO 339 INCL, ALSO LOTS 343 TO 361 INCL, ALSO ALL OF VAC STREETS, ALLEYS & WALKS WITHIN PARCEL DESC AS BEG AT PT DIST N 01-12-09 E 59.72 FT & S 87-18-59 E 60.17 FT FROM SW SEC COR, TH N 01-11-21 E 1326.13 FT, TH S 87-18-59 E 286.26 FT, TH N 50-29-10 E 18.16 FT, TH S 87-18-59 E 146.54 FT, TH N 02-41-01 E 119.03 FT, TH ALG CURVE TO LEFT, RAD 2062.24 FT, CHORD BEARS S 74-45-57 E 102.66 FT, DIST OF 102.66 FT, TH ALG CURVE TO LEFT, RAD 1171.82 FT, CHORD BEARS S 78-50-37 E 108.42 FT, DIST OF 108.46 FT, TH ALG CURVE TO LEFT, RAD 2147.32 FT, CHORD BEARS N 89-35-19 E 665.63 FT, DIST OF 668.32 FT, TH ALG CURVE TO LEFT, RAD 810.21 FT, CHORD BEARS N 78-51-20 E 51.37 FT, DIST OF 51.38 FT, TH N 77-02-20 E 235.59 FT, TH S 00-31-33 W 1026.50 FT, TH S 15-34-30 W 74.17 FT, TH ALG CURVE TO RIGHT, RAD 268.02 FT, CHORD BEARS S 34-39-14 W 176.51 FT, DIST OF 179.87 FT, TH ALG CURVE TO LEFT, RAD 330 FT, CHORD BEARS S 28-10-09 W 284.80 FT, DIST OF 294.47 FT, TH S 02-36-20 W 25.48 FT, TH N 87-18-59 W 1366.65 FT TO BEG 1-30-07 FR 005 & 354-008

Parcel 14-34-351-007:

T3N, R10E, SEC 34 SOUTH PARK LOTS 1 TO 8 INCL, ALSO PART OF LOT 9, ALSO PART OF LOTS 106 TO 109 INCL, ALSO ALL OF LOT 110, ALSO PART OF LOT 111, ALSO PART OF VAC IRVIN AVE, ALSO PART OF VAC ALLEY ALL DESC AS BEG AT PT DIST S 87-20-08 E 374.76 FT & S 87-20-35 E 1304.26 FT & N 00-31-33 E 59 FT FROM SW SEC COR, TH N 87-18-59 W 191.53 FT, TH N 02-36-20 E 25.56 FT, TH ALG CURVE TO RIGHT, RAD 270 FT, CHORD BEARS N 28-10-09 E 233.02 FT, DIST OF 240.93 FT, TH ALG CURVE TO LEFT, RAD 330 FT, CHORD BEARS N 43-06-22 E 121.71 FT, DIST OF 122.42 FT, TH S 00-31-33 W 328.80 FT TO BEG 1-30-07 FR 005

Parcel 14-34-380-041:

T2N, R10E, SEC 3 & T3N, R10E, SEC 34 OAKLAND COUNTY
CONDOMINIUM PLAN NO 1004 CENTERPOINT BUSINESS CAMPUS
UNIT 18 L 16667 P 011 10-28-96 FR 380-040

WHEREAS, the City of Pontiac Community Development Department recommends the removal of parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041 from the boundaries of the Tax Increment Finance Authority.

WHEREAS, the City of Pontiac Community Development Department recommends the approval of the establishment of a brownfield district for parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041

WHEREAS, the City of Pontiac Community Development Department recommends that parcel 14-34-380-043 be included in the brownfield district

Parcel 14-34-380-043

T3N, R10E, SEC 34 OAKLAWN FARMS SUB PART OF VAC BRADFORD
AVE DESC AS BEG AT PT DIST S 87-21-04 E 1678.86 FT & N 00-31-33 E
59.28 FT FROM SW SEC COR, TH N 00-31-33 E 328.80 FT, TH ALG CURVE
TO LEFT, RAD 330 FT, CHORD BEARS N 16-30-08 E 181.66 FT, DIST OF
184.03 FT, TH S 00-31-33 W 504.53 FT, TH N 88-13-17 W 50.01 FT TO BEG
9-24-07 FR RD

NOW THEREFORE BE IT RESOLVED THAT, the Pontiac City Council approves the removal from the boundaries of the Tax Increment Finance Authority parcels 14-34-351-006, 14-34-351-007 and 14-34-380-041 and establishes a brownfield district for parcels 14-34-351-006, 14-34-351-007, 14-34-380-041 and 14-34-380-043.

RECEIVED
2017 DEC -5 PM 12:45
CITY OF PONTIAC, MI

**Resolution Requesting the Oakland County Brownfield Redevelopment Authority
to Review the United Shore Redevelopment Project**

WHEREAS the City of Pontiac has a Brownfield project known as the United Shore Redevelopment project that it would like to have reviewed and processed by the Oakland County Brownfield Redevelopment Authority;

WHEREAS the City of Pontiac has a Brownfield Authority but desires to have the Oakland County Brownfield Redevelopment Authority handle the United Shore Redevelopment Project

WHEREAS the Oakland County Brownfield Redevelopment Authority was created by Oakland County pursuant to MCL 125.2651 et seq. to assist jurisdictions like the City of Pontiac;

WHEREAS the Oakland County Brownfield Redevelopment Authority is prepared to assist the City of Pontiac by reviewing the proposed United Shore Redevelopment project, provided that the City of Pontiac acknowledges certain rights that the Oakland County Brownfield Redevelopment Authority has, to wit:

- OCBRA intends to collect an administrative fee of \$5,000.00 per year for the length of the Brownfield plan; and

WHEREAS the City of Pontiac will have the opportunity to provide public comment on any Brownfield plan (including the amount of the administrative fee to be collected) before it is finally adopted by the OCBRA and/or the Oakland County Board of Commissioners;

NOW BE IT THEREFORE RESOLVED that the City of Pontiac request that the OCBRA undertake review of the United Shore Redevelopment Project.

RECEIVED
2017 DEC-5 PM 12:45
CITY OF PONTIAC

STATE OF MICHIGAN
COUNTY OF OAKLAND
CITY OF PONTIAC

**RESOLUTION CONCURRING WITH THE PROVISIONS OF
A BROWNFIELD PLAN ADOPTED BY THE OAKLAND COUNTY
BROWNFIELD REDEVELOPMENT AUTHORITY FOR THE
UNITED SHORE REDEVELOPMENT PROJECT**

RECITATIONS:

WHEREAS, the Oakland County Board of Commissioners, pursuant to and in accordance with the provisions of the Brownfield Redevelopment Financing Act, being Act 381 of the Public Acts of the State of Michigan of 1996, as amended (the "Act"), have established a Brownfield Redevelopment Authority and Board (OCBRA) to facilitate the clean up and redevelopment of Brownfields within Oakland County's communities; and

WHEREAS, the property located at 585-701 East South Boulevard (Property); and

WHEREAS, a Brownfield clean up and redevelopment plan (the "Plan") has been prepared to restore the environmental and economic viability to this parcel which the OCBRA has reviewed and approved; and

WHEREAS, pursuant to OCBRA by-laws, a local committee has been appointed, participated in discussions regarding the proposed plan and project, reviewed the plan, and recommends its approval; and

WHEREAS, the OCBRA, pursuant to and in accordance with Section 13 of the Act, shall consider recommending that the Oakland County Board of Commissioners approve the Brownfield Plan to be carried out within the City of Pontiac, relating to the redevelopment of 585-701 East South Boulevard; and

WHEREAS, the City has reviewed the Plan, and have been provided a reasonable opportunity to express their views and recommendations regarding the Plan in accordance with Sections 13(13) of the Act; and

NOW THEREFORE BE IT RESOLVED THAT, the City of Pontiac hereby concurs with the provisions of the Plan including approval of the Plan by the Oakland County Board of Commissioners and implementation of the Plan by the Oakland County Brownfield Redevelopment Authority.

BE IT FURTHER RESOLVED THAT should any section, clause or phrase of this Resolution be declared by the courts to be invalid, the same shall not affect the validity of this Resolution as a whole nor any part thereof other than the part so declared to be invalid.

BE IT FURTHER RESOLVED THAT all resolutions or parts of resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

AYES:
NAYS:
ABSTENTIONS:
ABSENT:

CERTIFICATION

It is hereby certified that the foregoing Resolution is a true and accurate copy of the Resolution adopted by the City Council of the City of Pontiac at a meeting duly called and held on the ____ day of December, 2017.

CITY of PONTIAC

By: _____,
_____, CLERK

ORDINANCE NO. _____

AN ORDINANCE TO REPEAL THE EXISTING ARTICLE III (“SEWERS”) OF CHAPTER 118 (“UTILITIES”) OF THE MUNICIPAL CODE OF PONTIAC, MICHIGAN (“MUNICIPAL CODE”), AND TO ENACT A NEW ARTICLE III (“SEWER USE AND PRETREATMENT”) OF CHAPTER 118 (“UTILITIES”) OF THE MUNICIPAL CODE, TO REGULATE THE USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, PRIVATE SEWAGE DISPOSAL, SEWER INSTALLATIONS AND CONNECTIONS, AND DISCHARGES OF WASTEWATER AND POLLUTANTS INTO THE CRWRRFDD’S PUBLICLY OWNED TREATMENT WORKS (“POTW”); TO REQUIRE PRETREATMENT OF NONDOMESTIC WASTES BY USERS OF THE POTW, USER PERMITS, AND MONITORING AND REPORTING OF USERS; AND TO PROVIDE FOR ENFORCEMENT, PENALTIES, AND OTHER RELIEF FOR VIOLATIONS.

THE CITY OF PONTIAC, MICHIGAN, ORDAINS:

Sec. 1. Repeal of existing Article III of Chapter 118 of the Pontiac Municipal Code.

The existing Article III (“Sewers”) of Chapter 118 (“Utilities”) of the Pontiac Municipal Code is hereby repealed in its entirety.

Sec. 2. Enactment of new Article III of Chapter 118 of the Pontiac Municipal Code.

A new Article III (“Sewer Use and Pretreatment”) of Chapter 118 (“Utilities”) of the Pontiac Municipal Code is hereby adopted to read in its entirety as follows:

TABLE OF CONTENTS

DIVISION 1. GENERAL PROVISIONS	5
SEC. 118-71.01. DESIGNATION OF AGENT AND REPRESENTATIVE; AMENDMENTS; GENERAL PURPOSES, SCOPE, AND APPLICABILITY OF ARTICLE	5
SEC. 118-71.02. DEFINITIONS.....	8
DIVISION 2. USE OF PUBLIC SEWERS REQUIRED;	31
PRIVATE WASTEWATER DISPOSAL	31
SEC. 118-72.01. PUBLIC SANITARY SEWER SYSTEM; DECLARATION OF NECESSITY	31
SEC. 118-72.02. UNLAWFUL CONSTRUCTION.....	31
SEC. 118-72.03. REQUIRED CONNECTION TO AVAILABLE SANITARY SEWER.....	31
SEC. 118-72.04. PRIVATE TREATMENT AND DISPOSAL REQUIREMENTS	32
SEC. 118-72.05. PUBLIC SEWER BECOMES AVAILABLE	33
SEC. 118-72.06. UNLAWFUL DEPOSITION	33
SEC. 118-72.07. DISCHARGE PROHIBITED WITHOUT REQUIRED APPROVALS, PERMITS, AND TREATMENT.....	34
SEC. 118-72.08. ADDITIONAL PUBLIC HEALTH REQUIREMENTS.....	34

DIVISION 3. BUILDING SEWERS AND CONNECTIONS	35
SEC. 118.73.01. WASTE DISCHARGE PROHIBITED EXCEPT THROUGH APPROVED SEWER CONNECTION.....	35
SEC. 118.73.02. CONNECTION PERMIT REQUIRED	35
SEC. 118.73.03. SEWER CONNECTION PERMITS; CONNECTION COSTS; PERFORMANCE BONDS AND INSURANCE ..	35
SEC. 118.73.04. MULTIPLE BUILDINGS; SEPARATE USES WITHIN BUILDINGS	36
SEC. 118.73.05. EXISTING BUILDING SEWERS; ABANDONED SEWERS	37
SEC. 118.73.06. CONSTRUCTION SPECIFICATIONS	37
SEC. 118.73.07. BUILDING SEWER ELEVATION AND LOCATION	38
SEC. 118.73.08. FLOOR DRAINS; BACKWATER VALVE DEVICES	38
SEC. 118.73.09. LOW BUILDING SEWERS.....	38
SEC. 118.73.10. CONNECTION SPECIFICATIONS	38
SEC. 118.73.11. NOTIFICATION; CONNECTION INSPECTION	39
SEC. 118.73.12. PROTECTION AND RESTORATION	39
SEC. 118.73.13. SEWER TO BE PLUGGED UPON BUILDING DEMOLITION	39
SEC. 118.73.14. CONNECTION TO SOURCES OF RUNOFF PROHIBITED	40
SEC. 118.73.15. PRETREATMENT OF ANY DISCHARGE MAY BE REQUIRED	40
DIVISION 4. CONDITIONS OF SERVICE	40
SEC. 118-74.01. RESPONSIBILITIES AND LIABILITIES FOR PRIVATE SEWER LINES AND FACILITIES	40
SEC. 118-74.02. WATER METERS.....	42
SEC. 118-74.03. DISRUPTION OF SERVICE	42
SEC. 118-74.04. SERVICE INSPECTIONS	43
DIVISION 5. PUBLIC SEWER DESIGN AND INSTALLATION	43
SEC. 118-75.01 PUBLIC SEWER DESIGN AND INSTALLATION - IN GENERAL	43
DIVISION 6. REGULATION OF DISCHARGES TO THE POTW	44
SEC. 118-76.01. DISCHARGE PROHIBITIONS	44
SEC. 118-76.02. PRETREATMENT STANDARDS AND REQUIREMENTS	61
SEC. 118-76.03. RIGHT OF REVISION	62
SEC. 118-76.04. POTW'S RIGHT TO REFUSE OR CONDITION DISCHARGE	62
SEC. 118-76.05. MOST RESTRICTIVE STANDARDS AND REQUIREMENTS APPLY	63
SEC. 118-76.06. DILUTION PROHIBITED AS SUBSTITUTE FOR TREATMENT	63
DIVISION 7. USER PERMITS	64
SEC. 118-77.01. USER PERMIT REQUIRED	64
SEC. 118-77.02. DETERMINATION OF USER STATUS	65
SEC. 118-77.03. PERMIT APPLICATION DEADLINES	66
SEC. 118-77.04. PERMIT APPLICATION REQUIREMENTS.....	67
SEC. 118-77.05. PERMIT ISSUANCE, DENIAL, OR DETERMINATION THAT PERMIT NOT REQUIRED.....	71
SEC. 118-77.06. PERMIT CONDITIONS	73
SEC. 118-77.07. PERMIT MODIFICATIONS	76
SEC. 118-77.08. PERMIT DURATION	77
SEC. 118-77.09. PERMIT REISSUANCE	77
SEC. 118-77.10. CONTINUATION OF EXPIRED PERMITS	78
SEC. 118-77.11. PERMIT SUSPENSION AND REVOCATION	78
SEC. 118-77.12. LIMITATIONS ON PERMIT TRANSFER	79
SEC. 118-77.13. DUTY TO PROVIDE INFORMATION	80
SEC. 118-77.14. PERMIT APPEALS.....	81
SEC. 118-77.15. PERMITS NOT STAYED	81

SEC. 118-77.16. PERMIT FEES	81
DIVISION 8. REPORTING AND NOTICE REQUIREMENTS	82
SEC. 118-78.01. REPORTS BY NONDOMESTIC USERS REGARDING CATEGORICAL PRETREATMENT STANDARDS AND REQUIREMENTS	82
SEC. 118-78.02. REPORTS REQUIRED FOR NONDOMESTIC USERS NOT SUBJECT TO CATEGORICAL PRETREATMENT STANDARDS	83
SEC. 118-78.03. NOTICE BY USER OF POTENTIAL PROBLEMS	84
SEC. 118-78.04. NOTICE BY USER OF VIOLATION OF PRETREATMENT STANDARDS	84
SEC. 118-78.05. NOTICE BY USER OF CHANGED DISCHARGE OR CHANGE IN USER STATUS	84
SEC. 118-78.06. NOTICE BY USER REGARDING WASTES THAT ARE OTHERWISE HAZARDOUS	86
SEC. 118-78.07. NOTICE BY USER REGARDING INSTALLATION OF NEW PRETREATMENT FACILITIES	86
SEC. 118-78.08. NOTICE OF INTENT	86
SEC. 118-78.09. OTHER REPORTS AND NOTICES REQUIRED BY THIS SECTION OR BY OTHER APPLICABLE LAWS AND REGULATIONS	87
SEC. 118-78.10. REQUIREMENTS APPLICABLE TO ALL REQUIRED REPORTS, NOTIFICATIONS, AND APPLICATIONS	87
SEC. 118-78.11. SIGNATURE AND CERTIFICATION REQUIREMENTS	89
DIVISION 9. SAMPLING, ANALYSIS AND MONITORING REQUIREMENTS	90
SEC. 118-79.01. SAMPLING AND ANALYTICAL TECHNIQUES AND PROCEDURES	90
SEC. 118-79.02. SAMPLING FREQUENCY	90
SEC. 118-79.03. SAMPLE TYPES	90
SEC. 118-79.04. SAMPLING METHODS, EQUIPMENT AND LOCATION	91
SEC. 118-79.05. COSTS OF MONITORING, SAMPLING AND ANALYSES	92
SEC. 118-79.06. SELF-MONITORING	92
SEC. 118-79.07. SAMPLING AND ANALYSES PERFORMED BY POTW	93
SEC. 118-79.08. SPLIT SAMPLES AND SAMPLE RESULTS	93
SEC. 118-79.09. MAINTENANCE, REPAIR AND CALIBRATION OF EQUIPMENT	94
SEC. 118-79.10. REQUIRED SAMPLING STRUCTURES AND DEVICES	94
SEC. 118-79.11. DETERMINATION OF FLOW	96
DIVISION 10. ACCIDENTAL DISCHARGES	97
SEC. 118-80.01. GENERAL	97
SEC. 118-80.02. DESIGNATION OF PERSON IN CHARGE OF DISCHARGE OPERATIONS	98
SEC. 118-80.03. DESCRIPTION OF CHEMICALS STORED, USED OR MANUFACTURED BY USER; USER DISCHARGES; USER PREMISES	99
SEC. 118-80.04. SEGREGATION OF WASTEWATERS REQUIRING PRETREATMENT	99
SEC. 118-80.05. SECONDARY CONTAINMENT REQUIREMENTS	99
SEC. 118-80.06. SUBMISSION OF POLLUTION INCIDENT PREVENTION PLAN	100
SEC. 118-80.07. POSTING OF ACCIDENTAL DISCHARGE INFORMATION	101
SEC. 118-80.08. NOTICE OF ACCIDENTAL DISCHARGE	101
SEC. 118-80.09. SLUG CONTROL PLAN	101
DIVISION 11. UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES	103
SEC. 118-81.01. UPSET	103
SEC. 118-81.02. ADDITIONAL AFFIRMATIVE DEFENSES	104
DIVISION 12. BYPASS	104
SEC. 118-82.01. BYPASS NOT VIOLATING APPLICABLE PRETREATMENT STANDARDS OR REQUIREMENTS	104
SEC. 118-82.02. BYPASS PROHIBITED	104

SEC. 118-82.03. REQUIRED NOTICES.....	105
SEC. 118-82.04. POTW APPROVED BYPASS	105
DIVISION 13. CONFIDENTIAL INFORMATION	106
SEC. 118-83.01. CONFIDENTIAL INFORMATION.....	106
DIVISION 14. RECORDS RETENTION	107
SEC. 118-84.01. MAINTENANCE OF RECORDS	107
DIVISION 15. ADMINISTRATION OF THE POTW	108
SEC. 118-85.01. OPERATION AND MANAGEMENT OF POTW	108
SEC. 118-85.02. POWERS OF DIRECTOR	109
DIVISION 16. USER POLLUTION CONTROLS.....	110
SEC. 118-86.01. PROVISION BY USERS OF NECESSARY PRETREATMENT FACILITIES	110
SEC. 118-86.02. PROPER OPERATION AND MAINTENANCE	110
SEC. 118-86.03. REMOVED SUBSTANCES	111
SEC. 118-86.04. DUTY TO HALT OR REDUCE ACTIVITY	111
SEC. 118-86.05. DUTY TO MITIGATE.....	111
SEC. 118-86.06. DUTY TO PRETREAT PRIOR TO DISCHARGE TO POTW.....	111
SEC. 118-86.07. IMPLEMENTATION OF BEST MANAGEMENT PRACTICES OR BEST MANAGEMENT PRACTICES PLAN	112
SEC. 118-86.08. FOG INTERCEPTORS; ALTERNATIVE FOG PRETREATMENT TECHNOLOGY; SAND TRAPS.	113
SEC. 118-86.09. DENTAL AMALGAM; AMALGAM SEPARATORS	120
SEC. 118-86.10. ADDITIONAL PRETREATMENT MEASURES.....	126
DIVISION 17. ENFORCEMENT	127
SEC. 118-87.01. POTW INSPECTION, SURVEILLANCE AND MONITORING AUTHORITY; RIGHT OF ENTRY.....	127
SEC. 118-87.02. NOTICE OF VIOLATION	130
SEC. 118-87.03. ORDERS AND SUPPLEMENTAL ENFORCEMENT TOOLS	131
SEC. 118-87.04. SERVICE OF NOTICES OF VIOLATIONS, ORDERS AND NOTICES OF ASSESSMENTS.....	136
SEC. 118-87.05. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE	137
SEC. 118-87.06. MUNICIPAL CIVIL INFRACTIONS.....	138
SEC. 118-87.07. CRIMINAL PENALTIES; IMPRISONMENT	140
SEC. 118-87.08. CONTINUING VIOLATION.....	140
SEC. 118-87.09. NUMBER OF VIOLATIONS	140
SEC. 118-87.10. NUISANCE	142
SEC. 118-87.11. REIMBURSEMENT	142
SEC. 118-87.12. REVIEW OR APPROVAL BY DIRECTOR OR CITY	144
SEC. 118-87.13. SEVERANCE OR SUSPENSION OF SEWER AND/OR WATER SERVICE	144
SEC. 118-87.14. JUDICIAL RELIEF	145
SEC. 118-87.15. CUMULATIVE REMEDIES	145
DIVISION 18. ADMINISTRATIVE REVIEW AND APPEALS	145
SEC. 118-88.01. PROCEDURES AVAILABLE	145
SEC. 118-88.02. INFORMAL REVIEW AND RECONSIDERATION BY THE WRRF SUPERINTENDENT.....	146
SEC. 118-88.03. APPEAL TO WASTEWATER BOARD OF APPEALS.....	146
SEC. 118-88.04. PAYMENT OF CHARGES, PENALTIES, FINES, AND OTHER COSTS OR FEES.....	148
SEC. 118-88.05. FINALITY OF ACTION.....	148
SEC. 118-88.06. APPEALS FROM DETERMINATION OF WBA	149
DIVISION 19. PROTECTION FROM DAMAGE	149
SEC. 118-89.01. PROTECTION FROM DAMAGE	149

DIVISION 20. MUNICIPAL LIABILITY	149
SEC. 118-90.01. MUNICIPAL LIABILITY.....	149
DIVISION 21. USE OF PUBLIC SEWERS CONDITIONAL.....	149
SEC. 118-91.01. USE OF PUBLIC SEWERS CONDITIONAL	149
DIVISION 22. INDUSTRIAL PRETREATMENT PROGRAM FEES	150
SEC. 118-92.01. PURPOSE.....	150
SEC. 118-92.02. IPP FEES.....	150
SEC. 118-92.03. IPP FEE AMOUNTS	150
SEC. 118-92.04. SURCHARGES	151
SEC. 118-92.05. BILLING AND COLLECTION OF IPP FEES	152
DIVISION 23. SEWER SERVICE CHARGES, RATES, AND FEES	152
SEC. 118-93.01. SEWER CONNECTION CHARGES AND FEES	152
SEC. 118-93.02. USER CHARGES AND FEES	154
SEC. 118-93.03. PAYMENTS; DELINQUENT FEES; LIEN	155
DIVISION 24. DISCHARGES TO POTW BY OTHER LOCAL UNITS	156
SEC. 118-94.01. DISCHARGES BY OTHER LOCAL UNITS OF GOVERNMENT; SEWER USE ORDINANCES; INTERJURISDICTIONAL AGREEMENTS	156

ARTICLE III. SEWER USE AND PRETREATMENT

DIVISION 1. GENERAL PROVISIONS

Sec. 118-71.01. Designation of Agent and Representative; Amendments; General Purposes, Scope, and Applicability of Article

A. Designation of CRWRRFDD and the Oakland County Agency as Agent and Representative.

1. The Clinton River Water Resources Recovery Facility Drainage District ("CRWRRFDD") owns the Clinton River Water Resource Recovery Facility ("Clinton River WRRF" or "WRRF") located within the City of Pontiac. Oakland County, acting through the County Agency (the Oakland County Water Resources Commissioner), owns the Pontiac Collection System, a system of sewers through which discharges of wastewater from Users and Premises located within the City of Pontiac (and from Users and Premises located within other local units of government) are conveyed to the WRRF for treatment and disposal in accordance with applicable laws and regulations and the CRWRRFDD's NPDES permit. (The WRRF and Pontiac Collection System are sometimes referred to collectively in this Article as the "POTW.")

2. Except as otherwise specifically provided by this Article, the City of Pontiac hereby designates, empowers and authorizes the Oakland County Water Resources Commissioner (acting on behalf of the CRWRRFDD and in the Commissioner's capacity as the County Agency) (hereinafter referred to in this Article as the "Director") to act as the City's principal agent and representative for purposes of administering and enforcing this Article with respect to all Users or Premises that discharge wastewater to the POTW.
- B. The City shall keep this Article continually up-to-date through amendments as requested by the Director from time to time, as determined necessary by the Director in accordance with applicable laws and regulations. The Director shall notify the City in writing of any such amendments. Upon receipt of the Director's notice, the City shall proceed to adopt the amendments to this Article in a prompt manner, and all such amendments shall become fully effective as City law no later than 180 days after the Director's notification. The City shall notify the Director upon final enactment of all such amendments to this Article and provide a copy of the Article as amended to the Director.
- C. The purposes of this Article include, but are not limited to, the following:
1. To establish uniform requirements for discharges by all users to the POTW, and to enable the POTW to comply with applicable State and Federal laws as required by the Federal Water Pollution Control Act (also known as the "Clean Water Act"), as amended, 33 USC 1251, et seq.; the General Pretreatment Regulations (40 CFR Part 403); Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended ("Water Resources Protection"); and the rules, Michigan Administrative Code, R 323.2301 et seq., as amended, promulgated pursuant to Sections 3103, 3106 and 3109 of Part 31 of Act 451 of the Public Acts of Michigan of 1994, as amended.
 2. To prevent the discharge of pollutants into the POTW that do not meet applicable pretreatment standards and requirements; that could interfere with the operation of the POTW; that could pass through the POTW into the receiving waters or the atmosphere, the environment, or otherwise be incompatible with the POTW; that could inhibit or disrupt the POTW's processing, use, or disposal of sludge; that could cause health or safety problems for POTW workers; or that could result in a violation of the CRWRRFDD's NPDES permit or of other applicable laws and regulations.

3. To improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW.
 4. To regulate the discharge of wastewater and/or pollutants to the POTW or the environment and to enforce the requirements of this Article through the issuance of permits and through other means as provided by this Article.
 5. To authorize and require all inspection, monitoring, reporting and enforcement activities as necessary to insure compliance with applicable pretreatment standards and requirements and other applicable laws and regulations.
 6. To provide for the equitable distribution and recovery of costs from users of the POTW sufficient to administer regulatory activities and to meet the costs of the operation, maintenance, repair, replacement, and improvement of the POTW.
 7. To otherwise protect the public health, safety, and welfare, and the environment.
- D. This Article applies to any person, whether located within the City, or outside the City, that discharges to the POTW. This Article also applies to any person owning, using, constructing or maintaining any private system or facility intended or used for the disposal of sewage or wastewater within the City or under the City's jurisdiction.
- F. It shall be unlawful for any person to discharge any wastewater or pollutant to the POTW or to any storm sewer or natural outlet within the City or under the City's jurisdiction, except in accordance with the provisions of this Article and other applicable laws and regulations.
- G. The City shall take all steps that are necessary to ensure that all requirements of this Article are met before allowing any connection to be made to a public sewer that transports wastewater to the POTW.
- H. If any user discharges or proposes to discharge wastewaters or pollutants that are prohibited or limited by this Article, the Director and/or the City may take any action as provided by this Article or other applicable laws or regulations to assure and require compliance with the provisions of this Article.

Sec. 118-71.02. Definitions

Unless the context clearly indicates otherwise, the following terms shall have the following meanings as used in this Article:

“Act” means Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC. 1251, et seq.

“Act 342” means Act 342 of the 1939 Public Acts of Michigan, as amended (the “County Public Improvement Act”).

“Alternative FOG Pretreatment Technology” or **“AFPT”** means a device to trap, separate, and hold FOG from wastewater and prevent it from being discharged into the POTW, other than an outdoor FOG interceptor.

“Ammonia Nitrogen” or **“NH₃ as N”** means one of the oxidation states of nitrogen in which nitrogen is combined with hydrogen in molecular form as NH₃ or in ionized form as NH⁺₄, and is determined quantitatively in accordance with U.S. EPA procedures set forth in the latest version of 40 CFR 136.

“Authorized Representative.” When used in reference to a Nondomestic User, “authorized representative” means as follows:

- A. If the user is a corporation, a responsible corporate officer. “Responsible corporate officer” means: (i) a president, secretary, treasurer, or 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; or (ii) the manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the user is a partnership or proprietorship, a general partner or proprietor, respectively.

- C. If the user is a federal, state or local governmental entity, the principal executive officer, ranking elected official, or other duly authorized employee having responsibility for the overall operation of the discharging facility.
- D. A duly authorized representative of an individual designated in (A), (B) or (C) above, if the representative is responsible for the overall operation of the facilities from which the discharge to the POTW originates.
- (1) To be considered "duly authorized," the authorization must be made in writing by an individual designated in (A), (B) or (C) above. The authorization must specify either an individual or a position having responsibility for the overall operation of the facility (such as the position of plant manager, operator of a well or well field, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company or entity). The written authorization must be submitted to the Director prior to or together with any reports to be signed by the authorized representative.
- (2) If an authorization under (D)(1) above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company or entity, a new written authorization must be submitted to the Director prior to or together with any reports to be signed by the newly authorized representative.

"Background Sewage Concentrations" or **"Background Concentrations"** means, in general, the estimated background influent pollutant loads from influent sources such as domestic users, and nondomestic users not subject to discharge permits or other controls, as determined pursuant to the CRWRRF's most recent MAHL study.

"Best Management Practice" or **"BMP"** means any practice, program, procedure, control, technique or measure (used singularly or in combination), that a user is required to adopt or implement to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances to the POTW, as determined necessary by the Director. BMPs include, but are not limited to: schedules of activities; pollution treatment practices or devices; prohibitions of practices; good housekeeping practices; pollution prevention, minimization and reduction measures; educational practices and programs; maintenance procedures; other management programs, practices or devices; treatment requirements; notice, reporting, and record-keeping requirements; and operating procedures and practices to control or contain site runoff, spillage or leaks, batch discharges, sludge or water disposal, or drainage from product and raw materials storage. BMPs may be structural, non-structural, or both. In determining what BMPs will be

required of a user in a particular case, the Director may consider all relevant technological, economic, practical, and institutional considerations as determined relevant and appropriate by the Director, consistent with achieving and maintaining compliance with the requirements of this Article and other applicable laws and regulations.

“BOD” means biochemical oxygen demand.

“BOD5” means the quantity of dissolved oxygen used in the biochemical oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees C., expressed in terms of weight and concentration (milligrams per liter).

“Building Drain.” See definition of “Sewer.”

“Building Sewer.” See definition of “Sewer.”

“Bypass” means the intentional diversion of wastestreams from any portion of a user’s treatment process or facility needed for compliance with pretreatment standards or requirements.

“Calendar Day” means the full 24-hour period beginning at 12 o’clock midnight of a day and ending at 12 o’clock midnight of the following day.

“Calendar Month” means the full period of calendar days beginning at 12 o’clock midnight of the first calendar day of a month and ending at 12 o’clock midnight of the last calendar day in that same month.

“Categorical Pretreatment Standard” or **“Categorical Standard”** means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Clean Water Act, 33 USC 1317, which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471, as amended from time to time.

“Categorical User” means a user subject to a categorical pretreatment standard.

“CBOD” (denoting Carbonaceous Biochemical Oxygen Demand) means the quantity of oxygen utilized (less the nitrogenous demand by the addition of a nitrogen inhibitor) in the biological oxidation of organic matter under standard laboratory procedures for five days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

“Cesspool” means an underground pit into which domestic waste is discharged and from which the liquid seeps into the surrounding soil or is otherwise removed.

“CFR” means Code of Federal Regulations.

“City” means the City of Pontiac, Oakland County, Michigan, and the City’s designated agents and authorized representatives.

“Clinton River Water Resource Recovery Facility” or “WRRF” means the Clinton River Water Resource Recovery Facility that is located within the City of Pontiac and that is owned by the CRWRRFDD, including the facilities currently known as the Auburn Plant and the East Boulevard Plant, and including all and any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as now or hereafter added to, extended or improved.

“COD” (denoting Chemical Oxygen Demand) means a measure of oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as oxygen consumed (OC) and dichromate oxygen consumed (DOC), respectively.

“Collection System Limitation” or “CSL” means a not-to-exceed concentration determined necessary to protect the POTW that applies to pollutants with the potential to cause obstruction of flow, fire, explosion, toxic fumes, structural corrosion, or other adverse conditions.

“Combined Sewer.” See definition of “Sewer.”

“Compatible Pollutant” means a pollutant that, as determined by the Director, is susceptible to effective treatment by the POTW as designed, and which will not interfere with, or pass through, the POTW, and which is otherwise not incompatible with the treatment processes or in excess of the capacity at the POTW. The term “compatible” is a relative concept that must be determined on a case-by-case basis. In determining whether or not a pollutant is compatible with the POTW, the Director may consider, without limitation, the nature and qualities of the pollutant, and the concentration, mass, and flow rate at which the pollutant is (or is proposed to be) discharged. Thus, for example, even pollutants such as BOD, fats, oils or grease, phosphorous, suspended solids, and fecal coliform bacteria, which may typically be considered “compatible,” may be determined incompatible by the Director if discharged in concentrations or flows that would cause interference or pass through or exceed the POTW’s capacity. Specifically excluded from

the definition of compatible pollutant are “heavy” metals, PCBs, and any pollutants that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.

“Composite Sample” means a series of individual samples, collected on a flow or time proportional basis, taken at regular intervals over a specific time period and combined into a single sample (formed either by continuous sampling or by mixing discrete samples) representative of the average stream during the sampling period. For categorical sampling, a composite sample shall consist of at least four (4) individual samples taken within a 24-hour period.

“Cooling Water” means water used for cooling purposes only, including both contact and non-contact cooling water.

“Cooling Water (contact)” means water used for cooling purposes only that may become contaminated or polluted either through the use of water treatment chemicals (such as corrosion inhibitors or biocides) or by direct contact with process materials and/or wastewater.

“Cooling Water (non-contact)” means water used for cooling purposes only that has no direct contact with any raw material, intermediate product, final product, or waste, and that does not contain a detectable level of contaminants higher than that of the intake water (for example, the water discharged from uses such as air conditioning, cooling, or refrigeration, or to which the only pollutant added is heat).

“Commercial User” means any Nondomestic User other than an Industrial User that by any means, contributes, causes or permits the contribution, introduction or discharge of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether directly or indirectly.

“County” means the County of Oakland, Michigan. “County” includes the County’s designated agents and authorized representatives.

“County Agency” means the Oakland County Water Resources Commissioner as designated by the Oakland County Board of Commissioners pursuant to the provisions of Act 342, and includes the County Agency’s designated agents and authorized representatives.

“CRWRRFDD” or “Clinton River Water Resource Recovery Facility Drainage District” means the drainage district organized pursuant to Chapter 20 of Act 40 of the 1956 Public Acts

of Michigan (the Drain Code of 1956), as amended, and that is located within the City, and includes the CRWRRFDD's designated agents and authorized representatives.

“Daily Maximum” means the maximum discharge of pollutants or flow (expressed in terms of concentration, mass loading, pounds, gallons or other unit of measurement) that shall not be exceeded on any single calendar day. 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 calendar day (except pH and dissolved oxygen). Where daily maximum limitations are expressed in units of mass, the daily discharge is the total mass discharged during the calendar day. If a composite sample is required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a single calendar day shall be based on the composite sample collected for that parameter on that calendar day. If grab samples are required for a parameter, the determination whether the daily maximum limitation for that parameter has been exceeded on a calendar day shall be based on the average of all grab samples collected for that parameter on that calendar day (except pH and dissolved oxygen). If only one grab sample is collected for a parameter on a given calendar day, the determination whether the daily maximum limitation for that parameter has been exceeded for that calendar day shall be based on the results of that single grab sample.

“Days” means, for purposes of computing a period of time prescribed or allowed by this Article, consecutive calendar days.

“Dilute” means to weaken, thin down or reduce the concentration of pollutants in wastewater.

“Director” means the Oakland County Water Resources Commissioner, acting in the Commissioner's capacity as agent for the CRWRRFDD pursuant to Chapter 20 of the Drain Code of 1956, as amended; and/or acting in the Commissioner's capacity as the County Agency pursuant to Act 342. “Director” includes the Commissioner's designated agents and authorized representatives, including, but not limited to, the WRRF Superintendent.

“Discharge” means the introduction of waste, wastewater, effluent, or pollutants into the POTW, whether intentional or unintentional, and whether directly (such as through an approved sewer connection or other approved discharge point as authorized by this Article) or indirectly (including, but not limited to, sources such as inflow and infiltration).

“Domestic Septage” means liquid or solid material removed from a septic tank, cesspool, portable toilet, type III marine sanitation device, or similar storage or treatment works that receives only domestic waste. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar facility that receives either commercial

wastewater or industrial wastewater and does not include grease removed from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant waste.

“Domestic Treatment Plant Septage” means biosolids generated during the treatment of domestic waste in a treatment works and transported to a receiving facility or managed in accordance with a residuals management program approved by the MDEQ.

“Domestic User” means a user that discharges only segregated normal strength domestic waste into the POTW.

“Domestic Waste” means wastewater (or water-carried waste) of human origin generated by personal activities from toilet, kitchen, laundry, or bathing facilities, or by other similar facilities used for household or residential dwelling purposes (“sanitary sewage”). Domestic waste shall not include any waste resulting from industrial or commercial processes, including, without limitation, any hazardous or toxic pollutants. Wastes that emanate from sources other than residential dwelling units may be considered domestic wastes only if they are of the same nature and strength and have the same flow rate characteristics as wastes that emanate from residential dwelling units, as determined by the Director.

“Dwelling” (as in “residential dwelling”) means any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums, and townhouses where each dwelling unit contains, at a minimum, sleeping facilities, a toilet, a bath or shower, and a kitchen.

“Effluent” means wastewater or other liquid, partially or completely treated, flowing from a reservoir, basin treatment process, treatment plant, disposal facility or toilet device.

“EPA” means the United States Environmental Protection Agency or the EPA’s authorized representatives.

“Excessive” means at such a flow, rate, magnitude or amount that, in the judgment of the Director, it may cause damage to any facility or the POTW; may be harmful to the wastewater treatment processes; may adversely affect the management or operation of the POTW or POTW sludge management or disposal; may cause pass through or interference; may violate any pretreatment standard or requirement; may adversely affect the quality of the receiving waters or the ambient air quality; may endanger worker health and safety; may constitute a public nuisance; may be inconsistent with the requirements, purposes or objectives of this Article; or may otherwise adversely impact the public health, safety or welfare or the environment.

“Existing Source” means any source of discharge that is not a “new source” as defined by this Article.

“Fats” or “FOG” means fats, oil or grease consisting of any hydrocarbons, fatty acids, soaps, fats, waxes, oils, or any other non-volatile material of animal, vegetable or mineral origin that is extractable by solvents in accordance with standard methods.

“Flow-proportional Composite Sample” means a combination of individual samples of equal volume taken at equal intervals of flow without consideration of the time between individual samples.

“Food Establishment Septage” means material pumped from a grease interceptor, grease trap, or other appurtenance used to retain grease or other fatty substances contained in restaurant wastes and which is blended into a uniform mixture, consisting of not more than one (1) part of that restaurant-derived material per three (3) parts of domestic septage, prior to land application or disposed of at a receiving facility.

“Food Service Establishment” or “FSE” means any premises where food or beverages are prepared and served or consumed, whether fixed or mobile, with or without charge, and whether on or off the premises. FSEs shall include, but are not limited to, restaurants, hotels, taverns, bars, rest homes, schools, factories, institutions, camps, grocery stores with onsite food preparation, and ice cream parlors. The following shall not be subject to the interceptor/APT requirements under Section 118-25.100 of this Article except as otherwise determined necessary by the Director to meet the purposes and objectives of this Article: (a) A private residential dwelling unit where the food is prepared and served or consumed solely by the occupants of the dwelling unit; (b) a premises where the only food prepared and served or consumed is dispensed from automatic vending machines; and (c) a “Temporary Food Service Establishment” meaning an FSE operating at a fixed location for not more than fourteen (14) consecutive days in conjunction with a single event or celebration.

“Footing drain.” See definition of “Sewer.”

“Garbage” means solid wastes from the storage, preparation, cooking, serving, dispensing, canning, or packaging of food, or from the growing, handling, storage, processing or sale of produce or other edible products. It is composed largely of putrescible organic matter and its natural or added moisture content.

“General User Permit” means a permit issued to any user other than a Significant Industrial User as provided by this Article to control discharges to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

“Grab Sample” means an individual sample that is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

“Grease trap” or **“grease interceptor”** shall mean a device meant to receive the drainage from fixtures or equipment with FOG-laden waste from a food service establishment or other nondomestic user’s premises, and may also be described as a device for separating and retaining FOG, waterborne greases, and grease complexes from wastewater prior to the wastewater exiting the device and entering the public sewer. Grease traps are generally smaller devices with lower flow rates and are located inside (often directly under a sink in FSEs), while grease interceptors are generally larger devices with higher flow rates located outdoors and underground.

“Grinder Pump” means, in a grinder pump system, the device to which the building sewer connects and which grinds and pumps the sewage to the public sewer for transportation to the POTW.

“Grinder Pump System” means the privately owned grinder pump, controls and pressure discharge pipe, including all control boards, controls, floats, pumps, storage tanks and appurtenances thereto which provides the connection between the privately owned building sewer and the public sewer system.

“Hazardous Waste” means any substance discharged or proposed to be discharged into the POTW, that (1) if otherwise disposed of would be a hazardous waste under 40 CFR Part 261 or under the rules promulgated under the state hazardous waste management act (Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended); or (2) is otherwise a waste or a combination of waste and other discarded material including solid, liquid, semisolid, or contained gaseous material that because of its quantity, quality, concentration, or physical, chemical, or infectious characteristics may cause or significantly contribute to an increase in mortality or an increase in serious irreversible illness or serious incapacitating but reversible illness, or may pose a substantial present or potential hazard to human health or the environment if improperly treated, stored, transported, disposed of, or otherwise managed, as determined by the POTW.

“Holding Tank Waste” means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

“Incompatible Pollutant” means any pollutant that is not a compatible pollutant and/or contains substances which are not amenable to treatment, or wastes which may adversely affect the treatment process, the effluent, sludge disposal practices, or cause the POTW to violate its NPDES permit, as determined by the Director.

“Industrial User” means any Nondomestic User that conducts any industrial, manufacturing, agricultural, trade, or business process, or development, recovery or processing of natural resources, that, by any means, contributes, causes or permits the contribution, introduction or discharge of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether directly or indirectly.

“Infiltration” means any waters entering the POTW from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

“Inflow” means any waters entering the POTW from sources such as, but not limited to, building downspouts; roof drains or leaders; cellar, yard, and area drains; foundation and footing drains; cooling water (non-contact) discharges; drains from springs and swampy areas; manhole covers; damaged sewer structures; cross connections from storm sewers or storm drains; catch basins; storm waters; surface runoff; street wash waters; or drainage.

“Instantaneous Maximum Limit” means the maximum concentration or other measure of pollutant magnitude of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration or other measure of pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample exceeds the instantaneous maximum limit, the instantaneous maximum limit shall be deemed to have been violated.

“Instantaneous Minimum Limit” means the lowest measure of pollutant magnitude of a pollutant allowed to be discharged at any instant in time (independent of the flow rate or duration of the sampling event). If the concentration or other pollutant magnitude determined by analysis of any grab sample, composite sample, or discrete portion of a composite sample is below the specified instantaneous minimum limit, the instantaneous minimum limit shall be deemed to have been violated.

“Interference” means a discharge which, alone or in conjunction with a discharge or discharges from other sources either:

- A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or
- B. Is a cause of a violation of any requirement of the CRWRRFDD's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations) Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including 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.

"Lateral Sewer." See definition of "Sewer."

"lbs/day" means pounds per day.

"Leachate" means any liquid that has percolated through or out of some substance and that liquid has been polluted or made toxic by percolating through that substance such as rubbish; a solution obtained by leaching.

"Local Limit" means a specific enforceable prohibition, standard or requirement (numerical or non-numerical) on discharges by Nondomestic Users established by the POTW to meet the purposes and objectives of this Article and to comply with applicable state and federal laws and regulations.

"MAC" means the Michigan Administrative Code.

"MAHL" or **"Maximum Allowable Headworks Loading"** means the estimated maximum influent pollutant loads from all influent sources (such as domestic and nondomestic users and septage) that can be received at the POTW's headworks without causing pass through or interference and consistent with applicable laws and regulations, as determined pursuant to the CRWRRF's most recent MAHL study.

"MAIL" or **"Maximum Allowable Industrial Loading"** means the estimated maximum influent pollutant loads from nondomestic users (including permitted industrial users and other controlled sources) that can be received at the POTW's headworks without causing pass through or interference and consistent with applicable laws and regulations, as determined pursuant to the CRWRRF's most recent MAHL study.

“**May**” is permissive.

“**MDEQ**” means the Michigan Department of Environmental Quality or the MDEQ’s authorized representatives (or the MDEQ’s successor agency).

“**Medical Waste**” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, or dialysis wastes, and includes any medical or infectious wastes as defined by the MDEQ.

“**mg/l**” means milligrams per liter.

“**Monthly Average**” means the sum of the concentrations (or mass loadings, expressed in terms of pounds per day, or such other unit of measurement) of a pollutant divided by the number of samples taken during a calendar month. The concentrations (or loadings) that are added are single numbers for single calendar days for all days during the calendar month for which analyses are obtained (whether by the user or the POTW), but the concentrations (or loadings) may be based upon a sample or samples taken over either all or part of that day and upon single or multiple analyses for that day, as determined by the Director. If no samples are taken during particular months because less than monthly sampling is required for a pollutant parameter (e.g., a specified quarterly monitoring period), the monthly average for each month within the specified monitoring period shall be deemed to be the sum of concentrations (or loadings) for the monitoring period divided by number of samples taken during the monitoring period.

“**NAICS**” or “**North American Industrial Classification System**” means the system of classification for business establishments adopted by the U.S. Office of Management and Budget, as amended.

“**National Pretreatment Standard**” means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act which applies to industrial users and includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

“**Natural Outlet**” means any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

“**New Source**” means 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; or
- B. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- C. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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 paragraphs (B) or (C) of this Section, above, but otherwise alters, replaces, or adds to existing process or production equipment. Commencement of construction of a new source shall be determined in a manner consistent with 40 CFR 403.3(m)(3).

“ng/l” means nanograms per liter.

“NH₃-N.” See definition of “Ammonia Nitrogen.”

“Non-contact Cooling Water.” See “cooling water (non-contact).”

“Nondomestic User” means any user other than a Domestic User (i.e., any user that discharges anything other than segregated normal strength domestic waste into the POTW, including but not limited to, commercial users and industrial users). The determination of whether or not a user is a “nondomestic user” shall be made by the Director at the Director’s sole discretion as determined necessary by the Director to achieve the purposes and objectives of this Article. Any user that has the reasonable potential, as determined by the Director, to discharge any waste other than normal strength domestic waste into the POTW, may be deemed a Nondomestic User for purposes of this Article. For the purposes of this Article, and notwithstanding any other provision of this Article to the contrary, any other local unit of government that contributes, or causes or permits the contribution or introduction of wastewater or pollutants into the POTW, whether

intentional or unintentional, and whether direct or indirect, shall be considered to be a Nondomestic User.

“Nondomestic User Permit” means a permit issued to a Significant Industrial User, or to such other user as determined appropriate by the Director, as provided by this Article to control discharges to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

“Nondomestic Waste” means any wastewater (or water- or liquid-carried waste) other than domestic waste. The determination of whether or not a waste is a “nondomestic waste” shall be made by Director at the Director’s sole discretion as determined necessary by the Director to achieve the purposes and objectives of this Article. Any waste that has the reasonable potential, as determined by the Director, to be not entirely composed of normal strength domestic waste may be deemed nondomestic waste for purposes of this Article.

“Nonpolar FOG” means any of the Total FOG substances which are not adsorbed by silica gel, and which are also commonly referred to as petroleum-based FOG.

“Normal Strength.” With regard to wastewater, “normal strength” means wastewater for which the concentrations of all pollutants in the wastewater are at or below the corresponding Background Sewage Concentrations for each pollutant. Similarly, with regard to any single pollutant parameter, “normal strength” means that the [average?] concentration of the pollutant is at or below the corresponding Background Sewage Concentration for the pollutant. Further, to be considered normal strength, the wastewater must have a pH between 6.5 and 8.5, must not exceed any local limit, and must not contain a level of any constituents (either singly or in combination) that might interfere with POTW treatment processes or cause pass through. The determination of whether or not wastewater or the concentration of a particular pollutant concentration is “normal strength” shall be made by Director based on such factors (including, but not limited to, the factors provided by this definition) as determined necessary and appropriate by the Director to achieve the purposes and objectives of this Article.

“NPDES Permit” means a National Pollutant Discharge Elimination System permit issued from time to time pursuant to Section 402 of the Act.

“Obstruction” means anything of whatever nature that impedes the flow of wastewater from the point of origination to the trunk line and anywhere else within the POTW. This includes, but is not limited to, objects, sewage, garbage, FOG, tree roots, rocks and debris of any type.

“Operation, Maintenance, Repair, Replacement, and Improvement” means all work, materials, equipment, utilities, and other efforts required to operate and maintain the POTW consistent, at a minimum, with insuring adequate treatment of wastewater to produce an effluent in compliance with the NPDES Permit and other applicable state and federal regulations, and includes the cost of repair, replacement, and improvement, in whole or in part.

“Outfall” means the point (or points) of discharge by a user to the POTW, approved by the POTW and specified in a User Permit.

“Owner” means the owner of record of the freehold of a premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person, firm or corporation in control of a premises.

“Pass Through” means a discharge that exits the POTW into waters of the State (or waters of the United States) in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the CRWRRFDD’s NPDES permit or of any requirement of applicable local, state or federal laws and regulations (including an increase in the magnitude or duration of a violation), or otherwise detrimentally impacts the receiving stream.

“Person” means any individual, partnership, co-partnership, firm, company, association, society, corporation, joint stock company, trust, estate, governmental entity, school district, or any other legal entity or its legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

“pH” means the quantitative measure of acidity or alkalinity of a solution, defined as the negative logarithm (base 10) of the concentration of hydronium ions in equivalents/liter.

“Phosphorus” means the total phosphorus content of a sample including all of the orthophosphates and condensed phosphates, both soluble and insoluble, and organic and inorganic species, and referred to in Standard Methods as total phosphorus.

“Pollutant” includes, but is not limited to, any of the following:

- A. Any material that is discharged into water or other liquid, including, but not limited to, dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste.

- B. Properties of materials or characteristics of wastewater, including, but not limited to, pH, heat, TSS, turbidity, color, BOD, COD, toxicity, and odor.
- C. Substances regulated by categorical standards.
- D. Substances discharged to the POTW that are required to be monitored by a user under this Article, that are limited in the CRWRRFDD's NPDES permit, or that are required to be identified in the POTW's application for an NPDES permit.
- E. Substances for which control measures on users are necessary to avoid restricting the POTW's residuals management program; to avoid operational problems at the POTW; or to avoid POTW worker health and safety problems.

"Pollution" means the alteration of the chemical, physical, biological and radiological integrity of water.

"Pontiac Collection System" (also known as the "City of Pontiac Sewage Disposal System") means the wastewater collection system owned by the County located within the City, including all sewers, pump stations, and other sewer facilities used to collect or convey wastewater to the Clinton River WRRF, as now or hereafter added to, extended or improved. The Pontiac Collection System is owned by the County by virtue of the City of Pontiac Sewage Disposal System Contract dated April 19, 2012 (entered into under Act 342) with the Oakland County Water Resources Commissioner acting as the County Agency.

"POTW" (Publicly Owned Treatment Works). The complete sewage collection, disposal, transportation and treatment system as defined by the Act and this Article, located within the City, including the Clinton River WRRF and the Pontiac Collection System, as now or hereafter added to, extended or improved. The term "POTW" shall also include any sewers and related facilities located outside the City that convey wastewater to the POTW from persons or entities that are, by contract or agreement with the CRWRRFDD and/or the County Agency, users of the POTW. References in this Article to approvals, determinations, reviews, etc., "by the POTW" shall mean by the Director, or the Director's designated agents or representatives. The term "POTW" may also be used to refer to the CRWRRFDD and/or the County Agency as the entities that have jurisdiction over discharges to the POTW, and their designated agents or representatives, as appropriate to the context in which the term is used.

“Premises” means a lot, tract, parcel or plot of land, or a building, structure, facility, or installation, or any part thereof, having any connection, directly or indirectly, to the POTW, or from which there is a discharge to the POTW.

“Pretreatment” means the reduction of the amount of pollutants, the elimination or removal of pollutants, or the alteration of the nature of pollutant properties in wastewater before or instead of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes; process changes; or other means, except for the use of dilution (unless expressly authorized by any applicable pretreatment standard or requirement and the Director) and except for the use of other means prohibited by applicable local, state, or federal laws or regulations. Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings, subject to applicable requirements of local, state and federal laws and regulations.

“Pretreatment Requirement” means any substantive or procedural requirement imposed on a user related to pretreatment, other than a national pretreatment standard.

“Pretreatment Standard” means any regulation containing pollutant discharge limits promulgated in accordance with Section 307(b) and (c) of the Act or Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., including general and specific prohibitive discharge limits and local limits established in this Article pursuant to MAC R 323.2303, and categorical standards.

“Private Sewer.” See definition of “Sewer.”

“Private Wastewater Disposal System” means a septic tank, cesspool or similar device, or part thereof, not connected to a public sewer.

“Process Wastewater” means any water that, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

“Public Sewer.” See definition of “Sewer.”

“Reasonable Potential.” As used in this Article, a determination of “reasonable potential” by the Director means a determination made by the Director that a certain condition, state, result or circumstance exists, or is likely to exist, based upon the quantitative or qualitative factors or

information deemed by the Director to be relevant and appropriate to the determination, consistent with the purposes and objectives of this Article.

“Replacement” means expenditures for obtaining and installing equipment, accessories, or appurtenances that are necessary to maintain the capacity or performance for which the POTW was designed or constructed.

“Representative sample” means a sample from a wastestream that is as nearly identical as possible in composition to that in the larger volume of wastewater being discharged and typical of the discharge from the facility on a normal operating day, as determined by the Director.

“Residential Dwelling” means any structure designed for habitation, including but not limited to houses, mobile homes, apartment buildings, condominiums, and townhouses where each dwelling unit contains, at a minimum, sleeping facilities, a toilet, a bath or shower, and a kitchen.

“Sanitary Sewage.” See “domestic waste.”

“Sanitary Sewer.” See definition of “Sewer.”

“Sanitary Sewer Cleanout Septage” means sanitary sewage or cleanout residue removed from a separate sanitary sewer collection system that is not land applied and that is transported by a vehicle licensed under Part 117 of Act 451 of the Public Acts of Michigan of 1994 (MCL §§ 324.11701 et seq., as amended; “Septage Waste Servicers”) elsewhere within the same system or to a receiving facility that is approved by MDEQ.

“Septage Waste” means the fluid mixture of untreated and partially treated sewage solids, liquids, and sludge of human or domestic origin that is removed from a wastewater system. Septage waste consists only of food establishment septage, domestic septage, domestic treatment plant septage, or sanitary sewer cleanout septage, or any combination of these.

“Septic Tank” means a watertight receptacle receiving sewage and having an inlet and outlet designed to permit the separation of suspended solids from sewage and to permit such retained solids to undergo decomposition therein.

“Severe Property Damage” means substantial physical damage to property, or damage to treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean an economic loss caused by delays in production.

“Sewage.” See “wastewater.”

“Sewer” means any pipe, tile, drain, conduit, or conveyance that carries wastewater or drainage water. Other terms used in this ordinance related to sewers are defined as follows:

“Building Drain” means that part of the lowest horizontal piping of a drainage system that receives the discharge from soil, waste, and other drainage pipes inside the walls of a building and conveys the discharge to a building sewer. The building drain shall be deemed to extend from within the walls of a building to a point 5 feet outside the outer face of the exterior building wall. (See diagram of a typical sewer service connection in Section 118-74.01(G).)

“Building Sewer” (also referred to as a house connection/lead) means the portion of the drainage system that extends from the end of the building drain (at a point 5 feet outside the outer face of the exterior building wall) and conveys the discharge to a Public Sewer, Private Sewer, or other point of disposal. (See example diagram in Section *** of this Article.) Types of Building Sewers include: “Combined Building Sewer” which conveys both sanitary sewage and storm water or other drainage; “Sanitary Building Sewer” which conveys sanitary sewage; and “Storm Building Sewer” which conveys storm water or other drainage, but not sanitary sewage. “Combined Building Sewers” are prohibited from discharging to the POTW. (See diagram of a typical sewer service connection in Section 118-74.01(G).)

“Combined Sewer” means a public sewer designed and intended to collect both wastewater and storm water runoff for conveyance to wastewater treatment facilities. Combined sewers are prohibited from discharging to the POTW.

“Common Sewer” means a sewer in which all owners of abutting properties have equal rights.

“Footing drain” means a private pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits ground water.

“Interceptor Sewer” means a public sewer that receives flow from a lateral sewer and conducts such waters to a point for treatment or disposal.

“Lateral Sewer” means a public sewer which is designed to receive a building sewer, and is that portion of the common public sewer system located under the street or within

the public right-of-way or public easement and that collects sewage from a particular property for transfer to an interceptor sewer, a trunk line, or to the WRRF.

“Private Sewer” means any sewer service line, equipment, or facilities for the disposal of wastewater installed or located on any premises and/or within the street right-of-way that transport wastewater from the premises to the public sewer, such as the building drain and the building sewer. (See diagram of a typical sewer service connection in Section 118-74.01(G).)

“Public Sewer” means a common sewer that is controlled by a governmental agency, public utility, or other public entity, such as a lateral sewer, an interceptor sewer, or a trunk line. (See diagram of a typical sewer service connection in Section 118-74.01(G).)

“Sanitary Sewer” means a sewer intended to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, and to which storm, surface and ground waters are not intentionally admitted, and which may include pumping stations, metering stations, and other appurtenances.

“Trunk Sewer” or **“Trunk Line”** means a public sewer that connects the lateral sewer to the interceptor sewer.

“Sewer System” means a group of interacting sewers functioning as a whole that carries wastewater or drainage water.

“Wye Branch” means a connection to the sewer that is made at an angle similar to a “Wye” so that a sewer cleaning rod will not come into the sewer at a right angle and penetrate the far side, but will travel down the course of the sewer.

“Sewer rates, fees and charges” means the rates, fees and charges for use of the POTW as established from time to time by the Director. Such rates, fees and charges include debt service charges required to retire debts resulting from capital or other costs incurred to contract, improve, expand, repair, maintain or replace a part of the POTW and sufficient and proportionate use charges required of all users for the cost of POTW operation, maintenance, repair, replacement, and improvement.

“Shall” is mandatory

“SIC” or **“Standard Industrial Classification Code”** means a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

“Significant Industrial User” or **“SIU”** means any user:

- A. Subject to categorical pretreatment standards; or
- B. Any other user that:
 - (1) discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater); or
 - (2) contributes a process waste stream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the WRRF; or
 - (3) is otherwise designated by the Director as a Significant Industrial User on the basis that the user has a reasonable potential to adversely affect the POTW, the POTW’s operations, the quality of the POTW’s sludge or effluent; to violate any pretreatment standard or requirement; or because the Director determines that a Nondomestic User Permit for the user’s discharge is required to meet the purposes and objectives of this Article.

The Director may determine that a user that meets the criteria of Subsections (B)(1) or (B)(2) of this definition above is not currently an SIU, if the Director finds that the user’s discharge, either singly or in combination with other discharges, has no reasonable potential to result in the adverse effects, to violate any pretreatment standard or requirement, or that a Nondomestic User Permit is not required to meet the purposes and objectives of this Article under Subsection (B)(3). A determination that a user is not an SIU (or that a permit is therefore not required) shall not be binding and may be reversed by the Director at any time based on changed circumstances, new information, or as otherwise determined necessary by the Director to meet the purposes and objectives of this Article.

“Sludge” means accumulated solid material separated from liquid waste as a result of the wastewater treatment process.

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

“Slug Loading” means any slug discharge that has a reasonable potential to cause damage to the POTW; be harmful to the wastewater treatment processes; adversely affect the management or

operation of the POTW or POTW sludge management or disposal; cause pass through or interference or otherwise cause the POTW to violate its NPDES permit; violate any pretreatment standard or requirement as provided by this Article or by any permit or order issued under this Article; adversely affect the quality of the receiving waters or the ambient air quality; endanger worker health and safety; constitute a public nuisance; or otherwise adversely impact the public health, safety or welfare or the environment.

“State” means the State of Michigan. The term shall include, where applicable, any administrative agency of the State having jurisdiction in the subject matter of this Article, including (but not limited to) the MDEQ.

“Storm Drain” or “Storm Sewer” means a drain or sewer, either natural or artificial, intended to carry storm water, snowmelt, and surface runoff and drainage, but not wastewater.

“Storm water” means any flow (such as storm water runoff, snow melt runoff, and surface runoff and drainage, but excluding wastewater) occurring during or following, and resulting from, any form of natural precipitation, and is that portion of flow in excess of that which infiltrates into the soil of the drainage area.

“Surcharge” means the additional charges made by the WRRF for the treatment of wastewater containing pollutants in excess of specified concentrations, loadings or other applicable limits, or for other purposes specified by this Article.

“Suspended Solids” (SS) or “Total Suspended Solids” (TSS) means solids that float on the surface of, or are suspended in, water, wastewater, or other liquids and which can be removed by laboratory filtering or other standard methods.

“Time-proportional Composite Sample” means a combination of individual samples of equal volume taken at equal intervals of time, without consideration of the volume or rate of flow.

“TKN” means the total Kjeldahl nitrogen content of a sample, including all of the ammonia and organic nitrogen compounds which are converted to ammonium sulfate under the conditions of digestion described in Standard Methods.

“Toxic Pollutant” means any pollutant or combination of pollutants that is or can potentially be harmful to the public health, the POTW, or the environment, including, without limitation, those listed in 40 CFR 401.15 as toxic under the provisions of the Clean Water Act, or listed in the Critical Materials Register promulgated by the MDEQ, or as provided by local, state or federal laws, rules or regulations.

“Trucked or Hauled Waste or Pollutants.” Any waste or wastewater proposed to be discharged to the POTW from a mobile source, including, without limitation, holding tank waste and septage waste.

“ug/l” means micrograms per liter.

“Unpolluted Water” means water in its natural state, or water which, after use for any purpose, is not substantially changed as to chemical or biochemical qualities or water that could otherwise not be benefitted by discharge to the POTW. The Director shall determine whether water is unpolluted water.

“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards 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.

“User” means any person who contributes, causes or permits the contribution, introduction or discharge of wastewater into the POTW, whether intentional or unintentional, and whether directly or indirectly. User includes any local unit of government located outside the City that discharges to the POTW, as well as the individual users located within such other local unit of government.

“User Permit” means a Nondomestic User Permit or a General User Permit.

“Wastewater” means the liquid and water-carried nondomestic or domestic waste from residential dwellings, commercial buildings, industrial facilities, institutions, or other premises (including, without limitation, contaminated groundwater and landfill leachate), together with any groundwater, surface water and storm water that may be present, whether treated or untreated, that is contributed, introduced or discharged into the POTW. The term includes any water that has in any way been used and degraded or physically or chemically altered.

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

“Waters of the State” means all rivers, streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private,

which are contained within, flow through, or border upon the State of Michigan or any portion thereof, and as otherwise provided by applicable laws and regulations.

“**Waters of the United States**” means all waters as defined by 40 CFR 122.2 and as otherwise provided by applicable laws and regulations.

“**WRRF Superintendent**” means the person designated by the Director, to perform on behalf of the Director, such actions as provided by this Article, including, but not limited to, the implementation of this Article and the supervision, management, and operation of the POTW. References to “WRRF Superintendent” include the WRRF Superintendent’s designated agents and authorized representatives.

DIVISION 2. USE OF PUBLIC SEWERS REQUIRED;
PRIVATE WASTEWATER DISPOSAL

Sec. 118-72.01. Public Sanitary Sewer System; Declaration of Necessity

A public sanitary sewer system is essential to the health, safety, and welfare of the people of the City. Privies, privy vaults, septic tanks, cesspools or other similar private wastewater disposal systems are subject to failure due to soil conditions or other reasons. Failure or potential failure of private wastewater disposal systems poses a threat to the public health, safety, and welfare; presents a potential for ill health, transmission of disease, mortality, and economic blight; and constitutes a threat to the quality of surface and subsurface waters of the state. The connection to available public sanitary sewer systems at the earliest, reasonable date is a matter for the protection of the public health, safety, and welfare and necessary in the public interest which is declared as a matter of legislative determination.

Sec. 118-72.02. Unlawful Construction

Except as provided in this Article, and unless specifically authorized by the County Health Department, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other private facility intended or used for disposal of wastewater within the City.

Sec. 118-72.03. Required Connection To Available Sanitary Sewer

The owner of any house, building, structure, premises, or property used for human occupancy, employment, recreation or other purposes, situated within (or outside) the City, and abutting on any street, easement, alley, or right-of-way, in which there is located, or may in the future be located, a public sanitary sewer that discharges, directly or indirectly, to the Clinton River

WRRF, is hereby required, at the owner's expense, to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer, in accordance with the provisions of this Article. Compliance with this subsection shall be within 180 days after the date of written notice by the City to do so. This subsection shall not apply to any persons served by a privately constructed, owned, operated, and maintained wastewater sewer and wastewater treatment facility that discharges directly to a natural outlet in accordance with the provisions of this Article and all applicable local, state, and federal laws and regulations.

Sec. 118-72.04. Private Treatment and Disposal Requirements

If a public sanitary sewer is not available under the provisions of 118-72.03, the building sewer shall be connected to a private wastewater disposal system complying with all requirements of this Section, the County Health Department, and any other applicable local and state laws and regulations.

- A. Before commencement of a private wastewater disposal system, the property owner shall first apply to the County Health Department for a soil evaluation test. If the soil evaluation test shows positive results, the property owner shall then apply to the County Health Department for a permit for installation for the proposed sewage system. The application shall include plans, specifications and other information as deemed necessary by the County Health Department. All fees for the soil evaluation test and the permit for installation shall be fully paid by the property owner to the County Health Department when and in the amounts specified by the County Health Department.
- B. A permit shall not be issued for any private wastewater disposal system employing subsurface soil absorption facilities if the area of the lot is less than determined necessary by the City, the County Health Department, or the State, as applicable.
- C. A permit for a private wastewater disposal system shall not become final and effective until the installation is completed to the satisfaction of the County Health Department. The County Health Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the County Health Department when the work is ready for final inspection, and before covering any underground portions. Any person receiving a permit for a private wastewater disposal system from the County Health Department shall provide the City with copies of the final approved inspection report issued by the County Health Department.

- D. The type, capacities, location and layout of a private wastewater disposal system shall comply with all recommendations and requirements of the City, the County Health Department, and the State, as applicable.
- E. No septic tank, cesspool, subsurface disposal facility or other private sanitary sewer system shall be permitted to discharge to any public sewer or natural outlet.
- F. The owner shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at the owner's sole expense. The facilities shall be subject to inspection by the City and the County Health Department at reasonable times.
- G. At such time as as an authorized private wastewater disposal system becomes defective or inoperative, a direct connection shall be made to the public sewer within 90 days in compliance with this Article at the user's sole expense, and the private wastewater disposal system shall be cleaned, abandoned and filled at the user's sole expense as otherwise provided by Section 118-72.05.

Sec. 118-72.05. Public Sewer Becomes Available

At such time as a public sewer becomes available to a property served by a private wastewater disposal system, as provided in Section 118-72.03, a direct connection shall be made to the public sewer in compliance with this Article at the user's sole expense; and any septic tanks, cesspools and similar private wastewater disposal facilities shall be cleaned of any sludge, abandoned, and filled with clean bank-run gravel or dirt, or other suitable material, at the user's sole expense.

Sec. 118-72.06. Unlawful Deposition

It shall be unlawful for any person to place, deposit or permit to be deposited, any human excrement, garbage, wastewater pollutants, or other objectionable waste, upon or below, the surface of public or private property within the jurisdiction of the City, except by discharging such wastewater into an approved connection to a public sanitary sewer where available or an approved private wastewater disposal system, or by disposing of such waste in accordance with all applicable local, state, and federal laws and regulations.

Sec. 118-72.07. Discharge Prohibited Without Required Approvals, Permits, and Treatment

Except as otherwise expressly permitted by local, state and federal laws and regulations, and subject to obtaining all required permits and approvals from governmental agencies (including, without limitation, the County, the City, the MDEQ, and EPA) and providing any required treatment, it shall be unlawful to discharge, or permit or cause to be discharged, either directly or indirectly:

- A. Polluted water, sewage, or wastewater to any natural outlet within the City, to any waters of the State (or waters of the United States), or to any public sewer; or
- B. Unpolluted water of any kind, including, without limitation, storm water, surface water, groundwater, roof runoff, artesian well water, drainage water (surface or subsurface), industrial non-contact cooling water, air-conditioning water, swimming pool water, or unpolluted industrial process waters to any public sanitary sewer; provided that stormwater runoff from limited areas that may be polluted at times, may be discharged to a public sanitary sewer if approved in advance by the Director. Unpolluted water may be discharged only to a sewer that is specifically designated as a storm sewer or to a natural outlet, and only if all applicable permits and approvals have first been obtained from the Director and other governmental bodies or agencies, and only if not prohibited by applicable local, state or federal laws or regulations.
- C. If any person drains or discharges any unpolluted water by means of conductors, eaves troughs, roof downspouts, footing drains, or otherwise, directly or indirectly, into a storm sewer, or natural outlet in violation of applicable laws or regulations, or into a sanitary sewer, the Director shall order its disconnection at the property owner's expense, and if the property owner refuses to obey the Director's order, then the Director shall disconnect the connection and the costs shall be charged to the property owner.

Sec. 118-72.08. Additional Public Health Requirements

Nothing in this Article shall be construed to interfere with any additional requirements regarding private wastewater disposal that may be imposed by the City, the County, the Michigan Department of Public Health, or any other governmental agency.

DIVISION 3. BUILDING SEWERS AND CONNECTIONS

Sec. 118.73.01. Waste Discharge Prohibited Except Through Approved Sewer Connection

All discharges to a sewer shall be through an approved sewer connection or at another discharge point expressly approved by the POTW in accordance with this Article and with any rules, regulations, or procedures established by the Director as determined necessary by the Director to administer and implement this Article. No person shall discharge any waste or other substances into a manhole, catch basin or inlet.

Sec. 118.73.02. Connection Permit Required

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any part or appurtenance of the POTW, nor discharge into the POTW, without first obtaining a written building sewer connection permit from the Director.

Sec. 118.73.03. Sewer Connection Permits; Connection Costs; Performance Bonds and Insurance

- A. The owner of any premises proposing to connect to the POTW shall make application on a form furnished by the Director for a permit to connect to the POTW. The application shall be supplemented by such information as required by the Director to administer this Article. A permit and inspection fee in an amount determined from time-to-time by the CRWRRFDD shall be paid to the Director at the time an application is filed. No connection shall be made to the POTW until a connection permit has been issued by the Director, subject to any terms or conditions determined appropriate by the Director.
- B. The Director may deny a connection permit if the Director determines that application for the permit shows that there is a reasonable potential that the anticipated discharges may interfere with the POTW; be inconsistent with the provisions of this Article, the CRWRRFDD's NPDES permit, any other local, state, or federal law or regulation, or in any other way hamper the operations of the POTW; or as otherwise determined by the Director that the proposed connection should not be made consistent with good engineering practices given the design, location, or other aspects of the proposed connection.
- C. Connection to a public sewer will not be allowed (and the Director shall not issue a connection permit) unless there is capacity available (in both wastewater volume and

strength) at the WRRF and in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat and dispose of BOD, TSS, or similar materials as required by applicable local, state or federal laws, rules or regulations, as determined by the Director.

- D. Before any permit or approval is issued by the City for excavating for plumbing or drain laying in any public street, way, or alley, the person applying for the permit or approval may be required to execute and deposit with the City a performance bond with corporate security in the amount of the contracted or estimated work, conditioned upon faithful performance of all work with due care and skill, and in accordance with the laws, rules, and regulations established by the City pertaining to sewers and plumbing. This bond shall state that the person will indemnify and save harmless the City and the owner of the premises against all damages, costs, expenses, outlays, and claims of every nature and kind arising out of mistake or negligence on the person's part in connection with plumbing, sewer line connection, or excavating for plumbing or sewer connection as prescribed in this Section. The bond shall remain in force and must be executed for a period of one (1) year, except that, upon expiration, it shall remain in force as to all penalties, claims, or damages that may have accrued thereunder prior to the expiration. The person applying for the permit or approval may also be required to provide public liability insurance for the protection of the City, the property owner, and all persons, to indemnify them for all damages caused by accidents attributable to the work, with minimum limits for bodily injuries per accident and for property damages as determined by the City.
- E. The person making the physical connection to a public sewer shall also comply with any applicable bonding and liability insurance requirements established by the Director.
- F. A violation of a connection permit is a violation of this Article.

Sec. 118.73.04. Multiple Buildings; Separate Uses within Buildings

A separate and independent building sewer shall be provided for each building. However, if any existing building is located on an interior lot so that a separate, independent building sewer is not available for the building, and one cannot be constructed to the building through an adjoining alley, courtyard or driveway, more than one building may be served with the same building sewer, subject to approval by the Director. In areas where building sewers have not been installed, or where unusual lot splits have occurred, leaving only one building sewer for two properties, joint use of this building sewer may be approved by the Director with the connection to the public sewer being allowed if determined by the Director to be consistent with the

purposes and objectives of this Article. Independent building sewers and/or control manholes may also be required for separate uses within a building, as determined necessary by the Director.

All discharge limits contained in this Article shall apply to that portion of the building sewer emanating from a single building or from each separate use located within a building, as applicable, or except as otherwise required by this Article for significant industrial users or categorical users. Compliance with pretreatment standards or local discharge limits prescribed by this Article shall be determined based on each separate discharge to the common building sewer prior to commingling with discharges from other sources.

Neither the Director, the CRWRRFDD, the County Agency, the County, or the City assumes any responsibility for damage caused by or resulting from any single building sewer which serves more than one building.

Sec. 118.73.05. Existing Building Sewers; Abandoned Sewers

Existing building sewers may be used in connection with new buildings only if they are found, on examination and test by the Director to meet all requirements of this Article and other applicable laws and regulations. If an inspection by the Director reveals that a connection may create a health or environmental hazard, nuisance, or is otherwise inconsistent with the purposes and requirements of this Article, the building sewer shall be reconstructed or repaired at the owner's sole expense. Abandoned sewers or openings shall be plugged to prevent dirt or fill material from entering the sewer system.

Sec. 118.73.06. Construction Specifications

No connection or building sewer extending to private property from a public sewer or drain shall be constructed except in accordance with specifications as provided by this Article or as otherwise established by the Director.

The pipe size, slope, alignment, materials or construction of a building drain or building sewer and the methods to be used in excavating, placing of the pipes, jointing, testing and backfilling the trench shall all conform to the requirements of the Director, the City building and plumbing codes, current International Plumbing Code, current International Residential Code, and other applicable rules and regulations as specified and determined by the Director and the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials (ASTM) and the Water Pollution Control Federation (WPCF) Manual of Practice shall apply.

All newly constructed building sewers shall, at a minimum, have a properly sized cleanout at the transition point from the building drain to the building sewer that is accessible at all times. This cleanout shall allow access of sewer cleaning equipment and be installed to direct flow in the downstream direction.

Sec. 118.73.07. Building Sewer Elevation and Location

Whenever possible, the building sewer shall be brought to the buildings at an elevation below the basement floor. No building sewer shall be laid parallel to, or within three feet of, any bearing wall that might thereby be weakened. The depth shall be sufficient to afford protection from frost. Additional measures must be taken for all building sewers proposed to have less than 4 feet of cover. The building sewer shall be laid at uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction shall be made with no more than a forty-five degree bend. Each bend of forty-five degrees shall have an accessible cleanout. All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Director and the City. Pipe laying and backfill shall be performed in accordance with current ASTM specifications, except that no backfill shall be placed until the Director and the City have inspected the work. Spacing of cleanouts shall comply with City building and plumbing codes, the current International Plumbing Code or current International Residential Code, and other applicable rules and regulations as specified and determined by the Director.

Sec. 118.73.08. Floor Drains; Backwater Valve Devices

Floor drains connected to the building sewer shall be required for all basements or cellars if the elevation of the public sanitary sewer will service the building. All required floor drains shall have check valves or backflow preventers that meet current laws and regulations as determined by the City.

Sec. 118.73.09. Low Building Sewers

In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by artificial means and discharged to the building sewer, at the owner's expense, and subject to approval by the City.

Sec. 118.73.10. Connection Specifications

The connection of the building sewer into the public sanitary sewer system shall conform to the requirements of the Director. The connections shall be made gas-tight and water-tight and

verified by proper testing. All connections and joints, and any deviation from the prescribed procedures and materials, must be approved by the Director before installation.

Single-family residential building sewers shall connect into the public sewer at the wye branch designated for the property if such branch is available at a suitable location. Any connection not made at the designated wye branch in the main sewer shall be made only as directed by the Director.

Commercial, industrial, or multifamily residential buildings shall connect into the public sewer at an existing manhole, if available, or by constructing a new manhole, or as otherwise required by the Director.

The connection of a surface runoff or groundwater drain to a storm sewer or natural outlet designed to transport surface runoff or groundwater drainage shall not be permitted without the City's prior approval.

Sec. 118.73.11. Notification; Connection Inspection

The applicant for the building sewer connection permit shall first apply to the Director and pay for the service connection permit. Applicants or their contractor shall be or become bonded with the Director's office. Applicants must provide the City with a copy of the Director's connection permit when applying to the City for permits. The contractor shall provide 72-hour notice to the Director to schedule inspection. The connection inspection and testing as determined necessary by the Director and as required by City building or plumbing code shall be made under the supervision of the Director and the City.

Sec. 118.73.12. Protection and Restoration

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the City at the sole expense of the owner. All refilling of the excavation made for such connection shall be under the supervision of the City officials responsible for streets, in coordination with the Director with regard to the backfill material and installation.

Sec. 118.73.13. Sewer to be Plugged upon Building Demolition

Whenever a building is demolished, thus terminating sewage flow from such location, all building connections to the sewer system shall be plugged at the tapping or opening into the

sewer, unless the building sewer is found to meet the requirements of this article and the rules and regulations of the Director as provided under section 118-259(d); in which case the plug shall be at the property line. Such plugging shall be made under the supervision of the Director. The owner of the building shall notify the building and safety engineering division as to when the plugging shall occur.

Sec. 118.73.14. Connection to Sources of Runoff Prohibited

No person shall connect (or allow to remain connected) roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain that in turn is connected directly or indirectly to a public sanitary sewer. Any such connection shall be permanently disconnected at the sole expense of the owner of the premises.

Sec. 118.73.15. Pretreatment Of Any Discharge May Be Required

Pretreatment of any discharge to the public sewer, including, but not limited to, grease, oil, and sand interceptors, shall be provided when, in the opinion of the Director, they are necessary.

DIVISION 4. CONDITIONS OF SERVICE

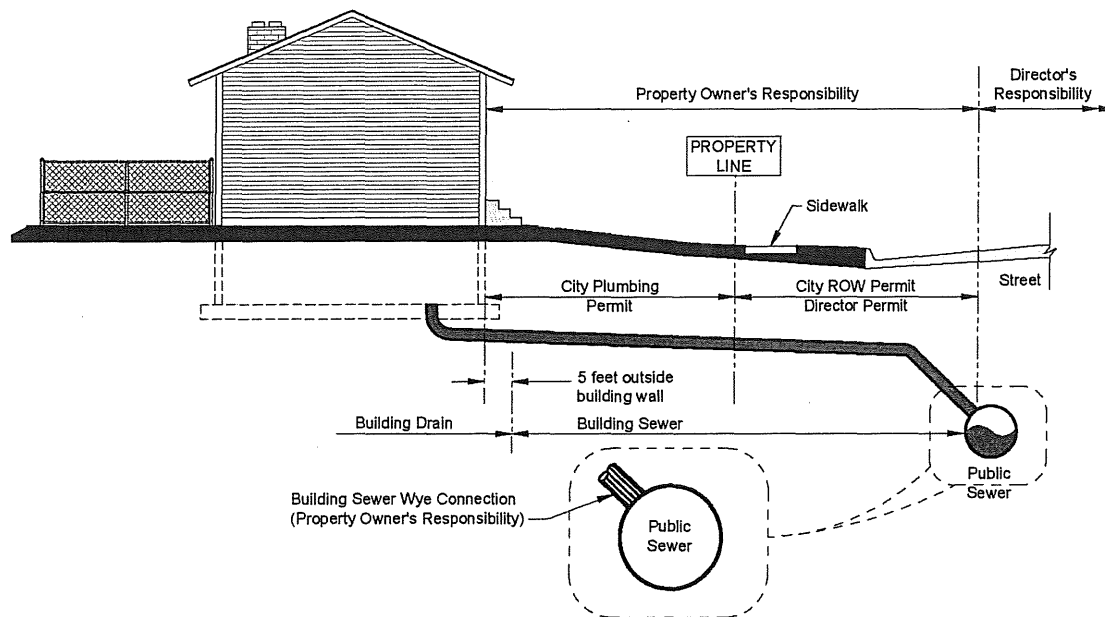
Sec. 118-74.01. Responsibilities and Liabilities For Private Sewer Lines and Facilities

- A. All costs and expenses incidental to the installation, connection, maintenance, and repair of a building drain, building sewer, and any other private sewer lines, private storm drains, and related private sewer facilities (hereinafter collectively referred to in this Section as "Private Sewer Lines and Facilities") shall be borne solely by the property owner. Further, the property owner shall indemnify the Director, the CRWRRFDD, the County Agency, the County, and the City from any loss or damage that may directly or indirectly be occasioned by the installation of any Private Sewer Lines and Facilities.
- B. The property owner shall pay all costs to construct any Private Sewer Lines and Facilities, including costs to construct any portion of the Private Sewer Lines and Facilities located within the public right-of-way.
- C. The property owner shall maintain, clean, and repair any Private Sewer Lines and Facilities on the property and in the public right-of-way at the property owner's expense as necessary to keep the Private Sewer Lines and Facilities free and clear of obstructions and in good working order.

- D. The Director shall maintain, clean, and repair as necessary and at the Director's expense the public sewer lines (such as the lateral sewer and trunk line), but shall not be responsible for cleaning, maintenance, repair of, or liability for, any Private Sewer Lines or Facilities.
- E. If there is a dispute as to whether needed maintenance, cleaning, or repair of a portion of sewer line is the responsibility of the property owner or the Director under the provisions of this Article, it shall be the duty of the property owner to establish that the obstruction, disrepair, or defect has occurred in that portion of the public sewer for which the Director is responsible. If the property owner fails to establish the Director's responsibility, it shall be the property owner's responsibility to perform the necessary cleaning, maintenance, and repair as provided in this Article. If the Director's responsibility is established, the Director shall perform the necessary cleaning, maintenance, or repair and shall reimburse the property owner for reasonable actual expenses incurred in locating the defect in the line or in otherwise establishing the Director's responsibility.
- F. Any property owner who violates the provisions of this Article shall be liable to the Director for all costs, expenses, and damages incurred by the Director in correcting the problem. Further, if a property owner fails to maintain any Private Sewer Lines and Facilities as required by this Article, in addition to the other penalties prescribed, the Private Sewer Lines and Facilities may be declared a public nuisance by the County Health Department and the problem may be corrected by the Director. Any costs so incurred by the Director shall upon the Director's request be assessed by the City against the property and become a lien on the property if not timely paid.
- G. The following diagram of a typical sewer service connection ("Typical Sewer Service Connection") shows the basic components of the private and public sewer lines as provided in this Section 118-74.01. The diagram is provided solely for purposes of illustration of a typical connection and the provisions of this Section 118-74.01 and other applicable provisions of this Article shall govern in any particular situation.

Typical Sewer Service Connection

(For Purposes of Illustration Only)



Sec. 118-74.02. Water Meters

All users shall have meters on all water sources that ultimately discharge into the POTW or shall meter the liquid wastes at the point of discharge into the POTW, as determined necessary and appropriate by the Director. All meters shall be approved by the Director.

Sec. 118-74.03. Disruption of Service

Neither the Director, CRWRRFDD, the County, the County Agency, or the City shall be held responsible for claims made against any or all of them by reason of the breaking of any sewer or building sewer, or by reason of any other interruption of the service caused by the breaking of machinery or stoppage for necessary repairs; and no person shall be entitled to damages nor have any portion of a payment refunded for any interruption.

Sec. 118-74.04. Service Inspections

All premises receiving sanitary sewer service shall at all times be subject to inspection by the Director and/or the City.

DIVISION 5. PUBLIC SEWER DESIGN AND INSTALLATION

Sec. 118-75.01 Public Sewer Design and Installation - In General

- A. All new, improved or expanded sanitary sewers and pumping facilities discharging anything into the POTW shall be constructed in accordance with the rules, regulations, and requirements established by the Director. Written approval of the Director shall be obtained prior to the start of any construction. The Director may approve plans that are in accordance with this Article and any other rules, regulations, or requirements established by the Director, subject to such terms and conditions determined appropriate by the Director; and may disapprove plans that are not.
- B. All plans shall be sealed by a professional engineer licensed to practice in Michigan prior to submission to the Director. Plans shall include all data required to make a complete review, and as determined by the Director. All elevations shall be converted to NAVD88 (North American Vertical Datum of 1988).
- C. The agency, person, firm, or municipality submitting such plans shall pay to the Director an amount sufficient to pay the cost of making the review and necessary inspections. Ten percent (10%) of estimated sewer construction costs shall be deposited with the Director to cover costs associated with full time inspection of any public sewer improvements. Actual costs shall be determined by multiplying the number of hours spent on the review and inspections by appropriate hourly rate which shall include all fringe benefits and overhead. Differences in deposit monies and actual costs shall be either refunded or invoiced to the owner or payee.
- D. All construction, materials, sizes, slope, alignment, methods to be used in excavating, placing of pipe, joints, testing and backfilling shall be in accordance with the rules, regulations, and requirements established by the Director and Recommended Standards for Wastewater Facilities (10 State Standards). In the absence of a rule or regulation provision or in amplification thereof, the materials and procedures shall comply with appropriate specifications of ASTM and/or WPCF Manuals of Practice or as otherwise required by the Director.

- E. Whenever sewers are about to be constructed for the purpose of carrying off sewage from lots and lands located outside the City limits, no permission shall be given or granted to connect such sewers with the POTW, nor shall the use of the POTW be permitted for the sewage from such lots and lands outside of the City limits, unless there shall have first been secured written permission from the Director, which shall be given only if the sewers or system of sewers for which such connection or use is sought conform to the plans theretofore adopted and/or approved by the Director. Plans proposing public sewer shall also require permit approval by the MDEQ under Part 41 of Act 451 of 1994.
- F. In addition to approvals by the Director and MDEQ as required by subsection 188-75.01(E), applicants for permission to use or connect with the POTW shall execute such agreements as to terms, conditions, and compensation for the use of such sewers and treatment works as shall be required by the Director and authorized by law.

DIVISION 6. REGULATION OF DISCHARGES TO THE POTW

Sec. 118-76.01. Discharge Prohibitions

No person shall discharge to the POTW except in compliance with this Article.

The general discharge prohibitions under Section 118-76.01(A) and the specific discharge prohibitions under Section 118-76.01(B) apply to every person whether or not the person is subject to any other national, state or local pretreatment standards or requirements, and whether or not the discharge is made pursuant to a User Permit issued pursuant to this Article.

- A. General Prohibitions. No person shall contribute or cause to be contributed, directly or indirectly to the POTW, any pollutant or wastewater that will pass through or interfere with the operation or performance of the POTW.
- B. Specific Prohibitions. No person shall discharge or contribute to the POTW, directly or indirectly, any of the pollutants, substances, or wastewater as provided by this Subsection 118-76.01(B). This Subsection 118-76.01(B) sets forth the minimum requirements for a user's discharges to the POTW. Additional or more restrictive requirements may be required of particular users by a User Permit, or as otherwise authorized or required by this Article or other applicable laws and regulations.
- (1) Standard Concentration Limits. Unless a SAL for a pollutant parameter has been developed and approved for a user as provided by Section 118-76.01(C) ("Special Alternative Limits"), no person shall discharge or contribute to the POTW,

directly or indirectly, pollutants in concentrations that exceed the maximum concentrations ("Standard Concentration Limits") listed below in this Subsection 118-76.01(B)(1):

Toxic Pollutants (Standard Concentration Limits)

Parameter	Instantaneous Maximum		Daily Maximum	
	mg/l ¹	Sample Type ²	mg/l ¹	Sample Type ²
Arsenic	---	---	0.039	Composite
Cadmium	---	---	0.36	Composite
Chromium	---	---	7.8	Composite
Copper	---	---	2.0	Composite
Cyanide (A)	0.26	Grab	0.26	Grab
Lead	---	---	2.4	Composite
Lithium	---	---	8.0	Composite
Mercury	NQ ³	---	NQ ³	Grab
Molybdenum	---	---	0.58	Composite
Nickel	---	---	2.9	Composite
Selenium	---	---	0.39	Composite
Silver	---	---	0.066	Composite
Zinc	---	---	2.9	Composite
Cyanide (T)	---	---	2.4	Composite
Cobalt	---	---	6.8	Composite
Total Phenols	1.4	Grab	1.0	Grab

2,4-Dichlorophenol	---	---	1.3	Grab
Pentachlorophenol	0.42	Grab	0.2	Grab
PCBs	ND ⁴	Grab	ND ⁴	Grab

Compatible Pollutants (Standard Concentration Limits)

Parameter	Instantaneous Maximum		Daily Maximum	
	mg/l ¹	Sample Type ²	mg/l ¹	Sample Type ²
BOD5 (or COD) ⁵	---	---	1,500 ⁶	Composite
Total Suspended Solids	---	---	2,100 ⁷	Composite
Phosphorus (T)	---	---	32 ⁸	Composite
Ammonia Nitrogen (or TKN ⁹)	---	---	125 ¹⁰	Composite
FOG (T)	150 ¹¹	Grab	150 ¹¹	Grab
FOG (Nonpolar)	50	Grab	50	Grab

Notes:

A = Available

T = Total

1. Mg/l except as otherwise indicated.

Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits will be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge, including, without limitation, the specific compounds, if any, listed in Section 118-76.01(B) of this Article.

Also, see Section 118-76.05, regarding application of most restrictive or additional standards or requirements under local, state, and federal laws and regulations.

A user may request the Director to develop alternative limits to the Standard Local Limits for specific pollutants ("Special Alternative Limits" or "SALs") as provided by Section 118-76.01(C).

2. See Section 118-79.03 of this Article for sample type requirements.

3. *NQ = Non-quantifiable concentration, defined as at or below the quantification level of 0.2 ug/l using U.S. EPA Method 245.1 (or at or below other quantification levels applicable under alternative test methods required by the POTW or by other applicable laws or regulations). Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with U.S. EPA method 245.1, unless the Director requires U.S. EPA Method 1631 (or other appropriate method). The quantification level shall be 0.2 ug/l for Method 245.1 or 0.5 ng/l for Method 1631, unless higher levels are approved by the Director because of sample matrix interference. Any discharge of mercury at or above the level of quantification is a specific violation of this Article.*
4. *The instantaneous maximum and daily maximum discharge limit for PCBs is non-detect. Except as otherwise required by the Director, compliance with this limit shall be determined as follows: A compliance limit of "non-detect" shall be used for instantaneous maximum and daily maximum discharge limit. Any discharge of PCBs at or above the quantification level is a specific violation of this Article. PCB sampling procedures, preservation and handling, and analytical protocol for compliance monitoring of a user's discharge shall be in accordance with U.S. EPA method 608. The quantification level shall be 0.1 ug/l, unless higher levels are determined appropriate by the Director because of sample matrix interference. Total PCBs shall be defined as the sum of the Aroclors 1016, 1221, 1232, 1242, 1248, 1254 and 1260. In addition, any detected Aroclor-specific measurements shall be reported.*
5. *At the Director's discretion, any limit for BOD5 may be replaced with a corresponding COD limit by multiplying the BOD5 limit by the user-specific ratio of COD to BOD5, provided this ratio is based on at least six samples collected over a four-week period or more sampling data if available.*
6. *Any discharge of BOD5 in excess of 275 mg/l shall be subject to surcharge as provided by this Article.*
7. *Any discharge of TSS in excess of 362 mg/l shall be subject to surcharge as provided by this Article.*
8. *Any discharge of phosphorus (T) in excess of 6 mg/l shall be subject to surcharge as provided by this Article.*
9. *At the Director's discretion, any limit for Ammonia Nitrogen may be directly expressed as a TKN limit when the user's discharge contains organic nitrogen.*
10. *Any discharge of Ammonia Nitrogen in excess of 25 mg/l shall be subject to surcharge as provided by this Article. (If TKN is the regulated or measured parameter instead of Ammonia Nitrogen, any discharge of TKN in excess of 40 mg/l shall be subject to surcharge as provided by this Article.)*
11. *Any discharge of FOG (T) in excess of 100 mg/l shall be subject to surcharge as provided by this Article.*

The IMC and daily maximum limits listed above in this Section 118-76.01(B)(1) (or as listed elsewhere in this Article or in any User Permit or Order) for each pollutant

parameter are the concentrations which may not be exceeded and at which enforcement begins. The surcharge threshold concentrations as specified in notes 6, 7, 8 and 10 (above) are the concentrations above which surcharges may be imposed. Discharges exceeding the surcharge thresholds, and which also exceed the instantaneous maximum and daily maximum limits (or which violate any other applicable prohibitions, limitations, standards, or requirements), are violations of this Article, and are also subject to surcharges as provided by this Article. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements constitute a violation of this Article, subject to applicable fines, penalties and other enforcement actions. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Article.

- (2) Any liquid, solid, gas or other pollutant (including, but not limited to, gasoline, benzene, naphtha, fuel or fuel oil) which by reason of its nature or quantity is sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to persons, the POTW, or to the operation of the sewerage system, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140° F or 60° C using test methods specified in 40 CFR 261.21; and any pollutant which (alone or by interaction with other substances) causes an exceedence of 10 percent of the lower explosive limit (LEL) at any point within the POTW.
- (3) Pollutants that may cause corrosive structural damage to the POTW, or that due to their corrosive properties are capable of causing injury to persons or POTW personnel or harm to fish, animals or the environment. Discharges that have a pH lower than 6.5 s.u. (instantaneous minimum limit) or greater than 10 s.u. (instantaneous maximum limit) shall not be discharged.
- (4) Any solid, insoluble or viscous substance in concentrations or quantities which may cause obstruction to the flow in the POTW, may create an encumbrance to the POTW operations, or which otherwise may result in interference, including, but not limited to, grease, animal entrails or tissues, bones, hair, hides or fleshings, whole blood, feathers, ashes, cinders, sand, cement, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, strings, fibers, spent grains, spent hops, wastepaper, wood, plastics, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes or tumbling and deburring stones; or any material that can be disposed of as trash.

- (5) Any pollutant, including, but not limited to, oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration that may cause pass through or interference with the POTW or constitute a slug loading, or is otherwise discharged to the POTW in excessive amounts.
- (6) Wastewater (or vapor) having a temperature that will inhibit biological activity in the POTW or result in interference, or heat in such quantities that the temperature at any lift station or at the WRRF exceeds 104° Fahrenheit (40° C). No discharge to the POTW shall have a temperature less than 40° Fahrenheit (4.4° C) or greater than 135° Fahrenheit (57.2° C), unless approved in advance by the Director.
- (7) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass through.
- (8) Pollutants that result in the presence of gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems. This prohibition includes, but is not limited to, wastewaters which contain liquids, solids or gases that cause gases, vapors or fumes from the discharge to exceed 10% of the immediately dangerous to life and health (IDLH) concentration. Discharges that contain more than one pollutant that may contribute to fume toxicity shall be subject to more restrictive limitations, as determined necessary by the POTW. The more restrictive discharge limits shall be calculated based on the additive fume toxicity of all compounds identified or reasonably expected to be present in the discharge.
- (9) Substances that, either alone or by interaction with other substances, cause or substantially contribute to increases in sewer gas hydrogen sulfide levels above 10 parts per million vapor (ppmv) concentration in downstream collection system lift stations, manholes or sewers. If the Director determines that a User's discharge is in violation of this prohibition, the Director may require the User to take whatever actions are determined necessary and appropriate by the Director to reduce the concentration of sewer gas hydrogen sulfide levels to less than 10 ppmv.
- (10) Trucked or hauled pollutants, except those introduced into the system at discharge points designated by the POTW, subject to the prior approval of the Director and prior issuance of a User Permit.
 - (a) The Director shall determine whether to allow the discharge of trucked or hauled pollutants based on the particular nature, character or quantity of

the proposed discharge in accordance with the discharge prohibitions, limitations and requirements provided by this Section.

- (b) The Director may impose any conditions on the discharge determined necessary to ensure compliance with this Section, including, without limitation, conditions regarding the time, place, and manner of discharge, restrictions on the quantity and quality of the discharge, and sampling requirements.
- (c) The discharge shall not commence without prior notice to, and authorization from, the Director, and a representative of the POTW shall be present at all times during the discharge.
- (d) All trucked or hauled wastes to be discharged to the POTW must be accompanied by a completed waste manifest form signed by the permittee and the hauler as provided by the minimum requirements of this Section. The permittee shall certify in writing on the manifest as to the source of all wastes in the load proposed to be discharged and that the wastes have been pretreated as required by applicable pretreatment standards and requirements. The hauler shall certify in writing on the manifest that the hauler has accepted no wastes other than those listed on the manifest. The manifest must be reviewed by the Director prior to commencing discharge of the load. Failure to accurately record every load, falsification of data, or failure to transmit the form to the Director for review prior to discharge shall constitute a violation of the permit and may result in revocation of the permit and/or the imposition of fines and penalties as provided by this Section.
- (e) The permittee's discharge of hauled wastes shall be subject to sampling by the POTW at any time, including, without limitation, prior to and during discharge, at no cost to the POTW. The Director may require the permittee to refrain from, or suspend, discharging until the sample analysis is complete.
- (f) Trucked or hauled pollutants will be accepted only if transported to the POTW in compliance with state and federal hazardous waste and liquid industrial waste laws.

- (g) Each discharge of trucked or hauled pollutants will be accepted only after payment to the POTW of a trucked or hauled pollutant discharge fee as required by the Director. Additional fees and charges may also be assessed to cover the POTW's administrative, consulting and legal expenses, and any additional treatment, handling or inspection expenses incurred by the POTW in connection with the discharge. Any such additional fees shall be established, paid, and collected as provided for IPP fees by Section 118-92. This discharge fee and any other fees and charges as provided by this subsection shall be in addition to surcharges that are otherwise applicable to the discharge.
- (h) The discharge of septage waste is prohibited except at septage receiving stations as specifically designated by the Director, and subject to compliance with any additional regulations and requirements established by the Director.
- (11) Wastewater with color or light absorbency characteristics that may interfere with treatment processes or analytical determinations, including, without limitation, dye wastes and vegetable tanning solutions.
- (12) Any garbage or other insoluble or solid material that has not been properly shredded or that has a specific gravity greater than 2.65. "Properly shredded" means shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in the POTW (or so as to otherwise not result in interference), with no particle greater than 1/2 inch in any dimension and no particle large enough to be retained by a standard no. 8 sieve.
- (13) Solvent extractibles, including, without limitation, oil, grease, wax, or fat, whether emulsified or not, in excess of applicable local limits; or other substances that may solidify or become viscous (with a viscosity of 110% of water) at temperatures between 32° Fahrenheit and 150° Fahrenheit in amounts that may cause obstruction to the flow in sewers or other interference with the operation of the POTW.
- (14) Soluble substances in a concentration that may increase the viscosity to greater than 10% over the viscosity of the water or in amounts that will cause obstruction to the flow in the POTW resulting in interference.

- (15) Any substance that exerts or causes a high or unusual concentration of inert suspended solids, as determined by the Director, including, but not limited to, lime slurries, diatomaceous earth, and lime residues.
- (16) Any wastewater that contains suspended solids of such character, quantity or concentration that special attention is required, or additional expense incurred, to process such materials at the POTW.
- (17) Any substance that exerts or causes a high or unusual concentration of dissolved solids, including, but not limited to, sodium chloride or sodium sulfate.
- (18) Any substance, including, but not limited to, noxious or malodorous liquids, gases, fumes, or solids, that either singly or by interaction with other wastes are sufficient to create a public nuisance, cause workplace conditions in violation of any applicable workplace health or safety standard, pose a hazard to life, sufficient to prevent entry into the sewers for maintenance and repair, or cause any hazardous or unsafe conditions for the general public.
- (19) Anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, cleaning solvents, oil-based paint, water-based paint with mercury biocides, and paint thinners.
- (20) Any radioactive wastes or isotopes of a half-life or concentration that may exceed limits established by applicable local, state or federal laws, rules or regulations.
- (21) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to cause or result in excess foaming during the treatment process. Excess foaming is any foam that, in the opinion of the Director, may interfere with the treatment process.
- (22) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to cause or result in foam in the POTW's effluent.
- (23) Wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect

in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard.

- (24) Any hazardous waste as defined by this Article.
- (25) Any medical or infectious wastes, as defined by the MDEQ.
- (26) Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation, reuse or disposal, or otherwise interfere with the reclamation, reuse, or disposal process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under 40 CFR Part 503; under Section 405 of the Act; under the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; the Marine Protection, Research, and Sanctuaries Act; or any more stringent state or local regulations, as applicable.
- (27) Any unpolluted water, including but not limited to, non-contact cooling water, air-conditioning water, swimming pool water, storm water, surface water, groundwater, roof runoff, and surface or subsurface drainage (except to a storm sewer as authorized by this Article and other applicable local, state, and federal laws and regulations, and subject to the prior approval of the Director and the MDEQ).
- (28) Any contaminated groundwater or landfill leachate determined by the POTW to have a reasonable potential to adversely affect the operation of the POTW, to result in pass through or interference, or to violate any pretreatment standard or requirement.
- (29) Any substance that will cause the POTW to violate its NPDES permit, the receiving water quality standards, or associated local, state or federal laws, rules or regulations.
- (30) Any substance in quantities that contribute to a high chlorine demand, including, but not limited to, nitrite, cyanide, thiocyanate, sulfite and thiosulfate.

- (31) Any wastewater that exceeds applicable categorical pretreatment standards, requirements or limits prescribed by local, state or federal laws, rules or regulations.
- (32) Any compatible or incompatible pollutant in excess of the allowed limits as determined by applicable local, state or federal laws, rules or regulations.
- (33) Any sludge, precipitate or waste resulting from any industrial or commercial treatment or pretreatment of any person's wastewater or air pollutants.
- (34) Residue (total on evaporation) in an amount that will cause obstruction to the flow in the POTW resulting in interference.
- (35) Water or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment to only such degree that the WRRF effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- (36) Any nondomestic wastewater before the POTW has approved a Notice of Intent submitted according to Section 118-78.08.
- (37) Waste not typically discharged to a sanitary sewer system unless specifically authorized by the POTW pursuant to policies and procedures established by the Director and subject to limitations set forth in this Article.
- (38) Any mass, concentration or volume of a substance in excess of the amount allowed in a User Permit.
- (39) Any discharge with an average daily flow greater than 2% of the POTW's average daily wastewater flow, or having a rate of flow (gallons per day) greater than 10% of the POTW's average daily wastewater flow for a period of one (1) hour or more, except with the prior review and approval of the POTW.
- (40) Any discharge with detectable levels of a fungicide, herbicide, or pesticide.
- (41) Any pollutant, substance, or wastewater that, either directly or indirectly, and either singly or by interaction with other pollutants, has a reasonable potential to:

- (a) create a chemical reaction with any materials of construction to impair the strength or durability of sewer structures;
- (b) cause a mechanical action that will damage or destroy sewer structures;
- (c) impede or restrict the hydraulic capacity of the POTW;
- (d) cause or result in turbidity, color, excessive odor, oil films, floating solids, settleable solids or deposits in the POTW's effluent;
- (e) interfere with normal inspection or maintenance of sewer structures;
- (f) place unusual demands upon the wastewater treatment equipment or processes by biological, chemical or physical means; or
- (g) cause a hazard to human life or create a public nuisance.

C. Special Alternative Limits. Notwithstanding the Standard Concentration Limits provided by Section 118-76.01(B)(1), the POTW may, but shall not be required to, develop alternative maximum concentration or mass-based limits for specific pollutants for a specific user ("Special Alternative Limits" or "SAL"), as provided by this Section 118-76.01(C) and the written SAL procedures established by the CRWRRF as part of the CWWRRF's approved IPP.

- (1) Requests by users to develop a SAL for one or more pollutants shall be made in writing to the Director.
- (2) After reviewing a request, the Director may require the user to submit any additional information that the Director determines will be necessary to adequately evaluate the user's request. This information may include, but shall not be limited to, any of the information that is required to be provided in a user permit application as set forth in Section 118-77.04 of this Article.
- (3) The Director may require a review of historical data from sampling and monitoring the user's discharge, including, but not limited to, concentration and flow data. The user may be required to update this data using any means or methods determined necessary by the Director. The Director may also require a review of typical discharge concentrations and flows for similar users, and any applicable categorical standards.

- (4) A site inspection may be required if deemed necessary by the Director.
- (5) The Director shall review the status of the CWWRRF's current MAHL and MAIL for the pollutant for which the SAL is being requested to determine if sufficient loading remains to accommodate all, any part, or none, of the requested SAL.
- (6) The Director shall also review whether the pollutant for which the SAL is being requested is, or should be, subject to a Collection System Limitation.
- (7) If determined necessary by the Director, the Director may require that an updated MAHL study be conducted to determine whether there is sufficient loading capacity to accommodate a proposed SAL for the pollutant in question.
- (8) After completing the review of a proposed SAL, the Director may approve, approve subject to conditions (including, but not limited to, required monitoring methods and frequencies), or deny the SAL, as determined appropriate by the Director; provided that no proposed or existing SAL shall: (1) significantly hinder the capacity of the POTW to accept additional waste from new or existing domestic or nondomestic customers; (2) result in an exceedance of the POTW's MAHL for the SAL pollutant; (3) result in an exceedance of the POTW's MAIL for the SAL pollutant; (4) have a discharge concentration (or equivalent discharge concentration if the SAL is a mass limit) that exceeds a Collection System Limitation applicable to the SAL pollutant (unless approved by the MDEQ); or (5) be approved or allowed to continue unless the Director has determined that the SAL is reasonable and appropriate under all of the circumstances, consistent with the purposes and objectives of this Article, the CWWRRF's approved written SAL procedures, the CRWRRFDD's NPDES permit, and other applicable laws and regulations. All SALs are subject to review and approval by MDEQ.
- (9) If a SAL is approved, or approved subject to conditions, and the user accepts the SAL as approved, the Director may modify or reissue the user's discharge permit to incorporate the SAL in the permit.
- (10) If the SAL involves a pollutant for which composite sampling is the required sample type as provided by this Article or as otherwise required by applicable legal requirements, the user shall have (or install prior to implementation of the SAL) capabilities for flow-proportional composite sampling.

- (11) The development of a SAL or implementation of a SAL in a user's discharge permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations. A SAL may be reviewed, reevaluated, modified, and/or revoked without notice at any time and for any reason determined appropriate by the Director. At a minimum, all existing SALs shall be reviewed whenever the CRWRRFDD's NPDES permit is subject to renewal.
 - (12) All costs and expenses, direct and indirect, associated with developing a SAL for a user shall be paid for by the user, including, but not limited to, the costs of reviewing the user's request for a SAL, all studies and reports, and all monitoring, sampling and generation of data; the full value of any POTW staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees (including the POTW's legal counsel and any special legal counsel), associated with developing the SAL for the user. At any time prior to, during, or after the SAL development process, the POTW may require a user that requests a SAL to post a performance bond (or other form of surety acceptable to the Director) sufficient to cover all costs and expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the user's request or implementation of an approved SAL, as determined necessary by the Director.
- D. Pollutant Reduction Plans. If the Director determines that a user has the reasonable potential to discharge any regulated pollutant (including, but not limited to, mercury or PCBs) to the POTW in quantities or magnitude that may cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES permit, or otherwise fail to meet the purposes and objectives of this Article, then the Director may require the user to develop, submit for approval, and implement a Reduction Plan ("RP") for the pollutant, as provided by this Section. The RP may be imposed as a condition to a User Permit, or may be required independently and even if a User Permit has not been issued to the user.
- (1) At a minimum, the RP shall contain such requirements and conditions, as determined necessary by the Director to ensure that the pollutant reduction efforts will be effective in achieving the goals of this Article (including, but not limited to, requirements and conditions regarding user source identification; best management practices; schedules of compliance; monitoring, sampling and

analysis; reporting; treatment system for removal of the pollutant from the discharged wastewater; written procedures for disposal of contaminated wastes and wastewater; employee training, and on-going employee training requirements regarding pollutant related issues; elimination, if feasible, of any purchased materials containing the pollutant; and any other elements determined necessary and appropriate under the circumstances by the Director).

- (2) The goal of an RP shall be to maintain the amount of one or more pollutants or substances at or below the applicable discharge limits or levels, or such other goals as required by the POTW. The Director may, in the Director's sole discretion, consider cost-effectiveness during the development and implementation of an RP.
- (3) The Director may require any user to submit an RP that describes the control strategy designed to proceed toward achievement of the specified goal and shall at a minimum include, but shall not be limited to, all of the following as determined necessary by the Director on a case-by-case basis:
 - (a) Periodic monitoring for the pollutant in the user's discharge.
 - (b) Periodic monitoring of the potential sources of the pollutant in the user's discharge.
 - (c) A commitment by the user that reasonable control measures and/or best management practices will be implemented when sources of the pollutant are discovered. Factors to be considered by the POTW may include the following:
 - (i) Significance of sources.
 - (ii) Economic considerations.
 - (iii) Technical and treatability considerations.
 - (iv) Such other factors as determined appropriate by the Director.
 - (d) An annual status report. The report shall be sent by the user to the POTW and shall include, at a minimum, all of the following:
 - (i) All RP monitoring results for the previous year.
 - (ii) A list of potential sources of the pollutant in the user's discharge.

- (iii) A summary of all actions taken by the user to reduce or eliminate the identified sources of the pollutant or substance.
- (4) As determined necessary by the Director, the Director may require a user to develop, submit and implement an RP for any pollutant or substance regulated by this Article. The Director may also modify an approved RP at any time as determined necessary by the Director to meet the goals and objectives of this Article.
- (5) Failure to submit an approvable RP within the specified deadlines or to fully and timely comply with any condition or requirement of an approved RP shall constitute a violation of this Article, subject to the fine, penalty, and other enforcement provisions of this Article.
- (6) Holding enforcement action in abeyance. Except as provided for in Section 118-76.01(D)(6)(c)(iv) and (vi), if the effluent sample analysis results of a user's discharge exceeds the applicable discharge limit, detection level, or quantification level for a pollutant, the Director may, in the Director's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance, subject to the terms, conditions, and requirements of this Section 118-76.01(D)(6), as follows:
 - (a) If an approved RP is already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is already in place, then the Director may, in the Director's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement action regarding the prohibited discharge in abeyance for the period that the sample represents if the RP (and all terms, conditions and requirements thereof) is being fully and continually performed in good faith by the user, as determined by the Director, and subject to all of the requirements and conditions of Section 118-76.01(D)(6)(c).
 - (b) If an approved RP is not already in place: If effluent sample analysis results exceeds the applicable discharge limit, detection level, or quantification level for a pollutant for which an approved RP is not already in place, then the Director may, in the Director's sole discretion, nevertheless allow that discharge to continue and may hold any enforcement regarding the prohibited discharge in abeyance, subject to all

of the requirements and conditions of Section 118-76.01(D)(6)(c), and provided further as follows: The user with the non-compliant discharge shall develop and implement an RP approved by the Director to minimize the user's discharges of the pollutant in question to the POTW. The RP shall meet all of the requirements of this Section 118-76.01(D).

- (c) The following requirements and conditions shall apply to any situation under this Section 118-76.01(D)(6) in which an enforcement action is held in abeyance as provided by this subsection (regardless of whether or not an RP was in place at the time of the non-compliance):
 - (i) The user with the non-compliant discharge shall have a POTW-accessible point for monitoring all discharges from the user to the POTW, as approved by the POTW. All costs and expenses for and related to the installation and maintenance of this monitoring point and any required sampling devices shall be paid for solely by the user.
 - (ii) The user with the non-compliant discharge shall routinely self-monitor its discharges to the POTW for the pollutant in question using the sampling methods, procedures, preservation and handling, and analytical protocol required by the Director and at the frequency specified by the Director. All costs and expenses of this sampling and analysis shall be paid for solely by the user.
 - (iii) The POTW may collect any additional samples of the user's discharge as determined necessary by the Director, all costs and expenses to be paid for by the user.
 - (iv) If the user complies with all of the requirements and conditions for the RP as specified by the Director; and if the Director determines that all reasonable and cost-effective actions based on the economic, technical, and treatability considerations, including, but not limited to, all elements of the user's RP, have been, and continue to be, fully and satisfactorily implemented by the user; and if the user's discharge does not cause interference or pass through; adversely impact the POTW, its processes or beneficial use of biosolids; cause noncompliance with applicable federal or state laws or regulations; cause the POTW to violate its NPDES

permit, or otherwise fail to meet the purposes and objectives of this Article, then the Director may, in the Director's sole discretion, hold enforcement action in abeyance and allow the user to continue the non-compliant discharge.

- (v) Notwithstanding any provision of this Section 118-76.01(D)(6) to the contrary, and regardless of whether a user fully complies with all requirements and conditions of this Section and/or of an approved RP, the Director shall have the unconditional right to prohibit and terminate any non-compliant discharge at any time and without prior notice, and to take any enforcement action in response thereto, including any enforcement action that had previously been held in abeyance under this Section 118-76.01(D)(6).
- (vi) Notwithstanding any provision of this Section 118-76.01(D)(6) to the contrary, the Director shall not hold an enforcement action in abeyance as provided by this subsection for any pollutant parameter other than mercury and PCBs unless the Director has first obtained approval from the MDEQ to implement the requirements of this Section 118-76.01(D)(6) for the specific pollutant parameter in question.

Sec. 118-76.02. Pretreatment Standards and Requirements

- A. Compliance with applicable standards and requirements. The national categorical pretreatment standards as established for specific industries under 40 CFR chapter I, subchapter N are hereby made a part of the requirements of this Article in accordance with federal and state laws and regulations, and are incorporated by reference as if fully set forth in this Article. A user shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the Act that are applicable to that user. A user shall also comply with all other applicable pretreatment standards and requirements established under this Article or under state and federal laws and regulations.
- B. Deadlines for compliance. Compliance by existing sources with categorical pretreatment standards shall be within three (3) years of the date the standard is effective unless a shorter compliance time is specified by 40 CFR chapter I, subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to

section 301(i)(2) of the act shall be required to meet compliance dates set in any applicable categorical standard. Existing sources that become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of "new source." New sources shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days), new sources must meet all applicable pretreatment standards and requirements.

- C. Alternative categorical limits. Categorical pretreatment standards shall apply to a user subject to categorical standards, unless an enforceable alternative limit to the corresponding national categorical standards is derived using any of the methods specified in MAC R 323.2313 (regarding removal credits, fundamentally different factor variances, net/gross calculations, equivalent mass per day limitations, and combined wastestream formula alternative limitations). The use of any alternative categorical limit shall be subject to the prior approval of the Director. If local limits are more stringent than derived alternative categorical limits, the local limits shall control. All costs incurred by the POTW in determining or applying an alternative limit shall be reimbursed to the POTW by the user.
- D. Compliance with other applicable laws and regulations. Users of the POTW shall comply with all local, state, and federal laws and regulations that may apply to their discharges to the POTW, including, but not limited to, Article II, Air Pollution Control, Part 55 of Act 451 of the Public Acts of Michigan of 1994 (the Natural Resources and Environmental Protection Act).

Sec. 118-76.03. Right of Revision

Notwithstanding any other provision of this Article to the contrary, the Director reserves the right to establish more restrictive prohibitions, limitations, standards or requirements for discharges to the POTW to prevent interference or pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the CRWRRFDD's NPDES permit, or as otherwise determined necessary by the Director.

Sec. 118-76.04. POTW's Right To Refuse or Condition Discharge

The POTW may refuse to accept, or may condition its acceptance of, all or any portion of any proposed or existing discharge to the POTW from any person, regardless of whether or not a User Permit has been issued for the discharge, if the Director determines that the discharge has a

reasonable potential to: adversely affect the operation of the POTW; result in pass through or interference; violate any pretreatment standard or requirement; cause the POTW to violate its NPDES permit; or if the impacts of the discharge on the POTW or the POTW's discharge are uncertain or unknown (because, for example, no local limits or headworks analysis has been conducted for particular pollutants in the discharge). If the Director denies any person permission to commence or continue all or any portion of a discharge to the POTW, the person shall refrain from commencing to discharge or shall immediately terminate the discharge to the POTW and shall not thereafter recommence discharge without written authorization from the Director. Similarly, if the Director denies any person permission to commence or continue all or any portion of a discharge to the POTW except subject to conditions determined necessary and appropriate by the Director, the person shall refrain from commencing or continuing the discharge except in full compliance with those conditions. This includes, but is not limited to, the POTW's right to revise or revoke User Permits.

Sec. 118-76.05. Most Restrictive Standards and Requirements Apply

Notwithstanding any provision of this Article to the contrary, the most stringent or restrictive standard or requirement applicable to a user's discharge shall control, whether established by this Article, by any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Article, by state laws or regulations, including the CRWRRFDD's NPDES permit, or by federal laws or regulations. Further, if state or federal laws or regulations provide for standards and requirements not covered by this Article that are otherwise applicable to a user's discharge, those standards and requirements shall apply to the user in addition to those required by this Article, and the most restrictive of those additional standards or requirements shall control and shall be complied with by the user immediately or within the time period specified by the law or regulation.

Sec. 118-76.06. Dilution Prohibited as Substitute for Treatment

Unless expressly authorized to do so by an applicable pretreatment standard or requirement and subject to the prior approval of the Director, no user shall ever increase the use of process water, mix separate wastestreams, or in any other way attempt to dilute, thin, or weaken a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal, state, or local standard, requirement or limitation. The POTW may impose mass limitations on Nondomestic Users that are using dilution to meet applicable pretreatment standards or requirements and in other cases where the imposition of mass limitations is appropriate. No user intending to use dilution as a substitute for treatment shall do so without the prior approval of the Director consistent with the requirements of this Section.

DIVISION 7. USER PERMITS

Sec. 118-77.01. User Permit Required

- A. Nondomestic User Permits. It is unlawful and prohibited for any significant industrial user (SIU), or any other user as determined necessary by the Director to carry out the purposes of this Article, to discharge to the POTW without a Nondomestic User Permit as provided by this Section.
- B. General User Permits. The Director may require any person other than a SIU to obtain a General User Permit to discharge to the POTW (including, but not limited to, any local unit that discharges to the POTW), subject to such terms and conditions as are determined necessary and appropriate by the POTW to achieve the purposes, policies, and objectives of this Article.
- (1) A General User Permit may contain, but shall not be required to contain, any of the terms and conditions that would apply to a Nondomestic User Permit issued to a SIU as provided by this Section to comply with the general and specific discharge prohibitions of this Article, including, but not limited to, discharge limitations, and requirements regarding sampling and monitoring; pretreatment; pollution prevention, minimization or reductions plans; accidental discharge, spill prevention, and containment requirements; flow equalization; and implementation of best management practices or a best management practices plan.
 - (2) To the extent determined appropriate by the Director on a case-by-case basis, a General User Permit issued under this Subsection shall be subject to provisions otherwise applicable to permits for SIUs. However, all General User Permits shall be non-transferable, and are subject to the permit fee and permit appeals provisions of this Article.
 - (3) It is unlawful and prohibited for any person required by the Director to obtain a General User Permit to discharge to the POTW without a General User Permit as provided by this Section.
 - (4) Failure to comply with a General User Permit issued under this Subsection constitutes a violation of this Article.
 - (5) In no case shall a General User Permit be construed to authorize the illegal discharge or otherwise excuse a violation of this Article.

- C. Notwithstanding any provision of this Article to the contrary, if determined necessary by the Director to achieve the goals and purposes of this Article, the Director may issue a User Permit to any person without first requiring the person to submit or complete a permit application.
- D. Any violation of the terms or conditions of a User Permit is a violation of this Article, subject to the fine, penalty, and other enforcement provisions of this Article. Obtaining a User Permit shall not relieve a person of the obligation to obtain other permits or approvals that may be required by other local, state or federal laws or regulations.
- E. The issuance of a User Permit shall not convey to any person any property rights or privilege of any kind whatsoever, nor shall it be construed to authorize any injury to private or public property or any invasion of personal rights, or any violation of local, state or federal laws or regulations.

Sec. 118-77.02. Determination Of User Status

- A. The Director may require any person to submit information to the POTW for the Director's use in determining the person's status as a user, including, but not limited to, whether the user is a SIU, as well as to determine changes or the absence or inadequacy of changes in a user's facilities.
- B. The Director shall notify a Nondomestic User of the Director's belief that the user is, or may be, a SIU, or is otherwise required to obtain a permit to discharge. Upon such notification, the user must complete and submit an application for a Nondomestic User Permit on a form furnished by the Director. The failure of the Director to so notify a Nondomestic User shall not relieve any SIU of the duty to obtain a permit as required by this Article.
- C. Upon determination that a User Permit is required, no connection to the POTW shall be made and no discharge thereto shall occur until a permit is duly issued; provided, however, that the Director may, in the Director's sole discretion, issue a written authorization in place of a permit, which authorization shall be valid for a period not to exceed 60 days.

Sec. 118-77.03. Permit Application Deadlines

Each user must file an application for a User Permit on the form provided by the Director within the following deadlines:

- A. Existing SIUs: Any SIU discharging into the POTW as of the effective date of this Article shall submit a completed permit application form to the Director as provided by this Section within 60 days of being so directed and provided a form by the Director.
- B. Proposed New SIUs: Any SIU proposing to commence (or recommence) discharging into the POTW after the effective date of this Article shall, at least 60 days prior to the anticipated date on which discharging will commence (or recommence), request a permit application form and submit the completed application to the Director.
- C. Categorical Users Subject to New Standard: A user which becomes subject to a new or revised national categorical pretreatment standard, and which has not previously submitted an application for a permit as required herein, shall apply to the Director for a Nondomestic User Permit within 90 days after the promulgation of the applicable national categorical pretreatment standard. The Director may also initiate this action; however, the failure of the Director so to do shall not relieve a user of its obligation to obtain a permit.
- D. Other users: Any other user directed by the Director to complete and submit a User Permit application shall do so within 60 days of being so directed by the Director and provided a form by the Director. Any user not required to obtain a User Permit for existing discharges must apply for and receive a User Permit prior to changing the user's discharge in such a manner that the resulting discharge would require a User Permit.

The Director may also require any other person to file the information required by Section 118-77.04 of this Article (whether or not that person is currently a user, and whether or not that person is otherwise currently discharging to the POTW, a storm sewer, or receiving waters), if the Director determines that there is a reasonable potential for the person to discharge to the POTW, a storm sewer, or receiving waters, whether due to an accidental spill or for any other reason. Any person directed by the Director to submit the required shall do so within the time frame as directed by the Director.

The failure or refusal of any person to submit or complete a permit application shall not in any way relieve the person from the duty to comply with a permit issued by the Director. In no case shall the receipt or non-receipt of a completed permit application prevent the issuance of a permit

by the Director or relieve a person from the duty of fully complying with a permit that is issued by the Director.

Sec. 118-77.04. Permit Application Requirements

All users shall submit the information required by this Section on the User Permit application form supplied by the Director (or attached thereto) at a level of detail and in units and terms as determined necessary by the Director to adequately evaluate the application, accompanied by payment of a permit application review fee. A separate application and supporting documentation shall be submitted for each separate location for which a User Permit is required.

- A. The name, address, and location of the facility or premises from which discharge will be made, including the names of the owner(s) and operator(s) of the facility or premises.
- B. Corporate or individual name, federal employer identification number, address and telephone number of the applicant.
- C. Whether the user is a corporation, partnership, proprietorship, or other type of entity, and the name of the person(s) responsible for discharges by the user.
- D. Name and title of the local authorized representative of the user who will have the authority to bind the applicant financially and legally, and who is authorized by the applicant as its agent to accept service of legal process, and the address and telephone number of such representative.
- E. The Standard Industrial Classification (SIC) numbers of all processes at the location for which application is made, according to the Standard Industrial Classification Manual, as amended (or, if applicable, the North American Industrial Classification System (NAICS) designation).
- F. Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application, including, but not limited to, any pollutants that are limited or regulated by any federal, state, or local standards or requirements. The information provided for such parameters shall include all of the following:
 - (1) Pollutants having numeric or narrative limitations as provided by this Article.
 - (2) Pollutants limited by National Categorical Pretreatment Standards regulations for similar industries.

- (3) For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided.
 - (4) For industries subject to National Categorical Pretreatment Standards or requirements, the data required shall be separately shown for each categorical process wastestream and shall include all information required in Section 118-78.01(A) for a Baseline Monitoring Report.
 - (5) Combined wastestreams proposed to be regulated by the combined wastestream formula shall be specified.
 - (6) Information regarding any other potential pollutants of concern, even if not limited by numeric or narrative limitations as provided by this Chapter or subject to National Categorical Pretreatment Standards or requirements.
- G. For purposes of information required by the application, sampling and analysis shall be performed in accordance with the following: Procedures established by U.S. EPA pursuant to Section 304 (g) of the Act and as contained in 40 CFR 136, as amended. If 40 CFR 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures in U.S. EPA publication "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants," April 1977, and amendments or revisions thereto, or where appropriate and applicable, in accordance with any other sampling and analytical procedures approved by EPA, or as otherwise specified by the Director.
- H. A listing and description of the following: plant activities, plant facilities, and plant processes on the premises for which the permit is being applied. Processes which are subject to National Categorical Pretreatment Standards or requirements shall be so designated, and identification of which pollutants are associated with each process shall be stated.
- I. A listing of the type and amount of raw materials and chemicals (including material safety data sheets) that are either used in the manufacturing process or could yield the pollutants referred to in this Section. Any user claiming immunity from having to provide such information shall furnish proof of such immunity that is acceptable to the Director and in accordance with all applicable local, state, and federal laws and regulations.

J. A statement containing information on the spill containment and prevention of Accidental/Spill Discharges program for each of the pollutants referred to in this Section. The information provided shall include the following:

- (1) The approximate average and maximum quantities of such substances kept on the premises in the form of the following: (a) raw materials; (b) chemicals; and/or (c) wastes therefrom; and
- (2) The containment capacity for each of the above items.

The following requirements apply for purposes of the spill containment and prevention statement required by this Subsection:

For raw materials, chemical solutions or waste materials that do not contain any substance on the Critical Materials Register promulgated by the MDEQ, only substances which are in a form which could readily be carried into the POTW and which constitute a concentration of 5% or greater on a dry weight basis in the raw material, chemical solution or waste material are required to be included in the statement. Volumes of less than 55 gallons or the equivalent need not be included unless lesser quantities could cause interference or pass through.

For raw materials, chemical solutions or waste materials that contain any amount of any substance on the Critical Materials Register promulgated by the MDEQ, the statement shall include the name of the substance and the expected concentration so that the Director can determine whether or not it may constitute a threat to the POTW if a spill occurs.

- K. The name and address of each laboratory performing analytical work for the user submitting the application.
- L. A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the 7 days of the week.
- M. Average and maximum 24-hour wastewater flow rates, including thirty (30) minute peak wastewater flow rates, and daily, monthly and seasonal variations, if any; and a list of each national categorical process wastestream flow rate and the cooling water and sanitary water flow rates separately for each connection to the POTW, and list showing each combined wastestream. All flows shall be measured unless other verifiable techniques are approved by the Director.

- N. A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW, storm sewer, or receiving waters.
- O. A flow schematic drawing showing which connections receive each national categorical process wastestream or other process wastestreams, and which connections receive storm water, sanitary water or cooling water.
- P. A schematic drawing showing which sewers handle each combined wastestream.
- Q. Each product produced by type, amount, process or processes and the rate of production as pertains to processes subject to production-based limits under national categorical standards or requirements shall be specified.
- R. Actual or proposed hours of operation of each pretreatment system for each production process.
- S. A description and schematic drawing showing each pretreatment facility, identifying whether each such facility is of the batch type or continuous process type.
- T. If other than potable water is used, identification of the user's source of intake water together with the types of usage and disposal method of each water source and the estimated wastewater volume from each source.
- U. A statement certified by a qualified professional regarding whether the requirements of this Article and the national categorical pretreatment standards and requirements are being met on a consistent basis; and if not, what additional operation and maintenance work and/or additional construction is required for the user to comply with applicable standards and requirements.
- V. A list of all environmental permits (and, if requested by the Director, a copy of any environmental permit) held by the user applicable to the premises for which the User Permit is being sought.
- W. Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet all applicable federal, state, and local pretreatment standards and requirements. If additional O&M or additional pretreatment will be required to meet the applicable standards and requirements, then the user shall indicate the shortest time

schedule necessary to accomplish installation or adoption of the additional O&M and/or pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this 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 (including, without limitation, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed nine (9) months, nor shall the total compliance period exceed eighteen (18) months.
 - (2) No later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between submissions of the progress reports to the Director.
- X. If requested by the Director, a proposed sampling plan for one or more pollutant parameters that will be discharged by the user.
- Y. Any other information determined necessary by the Director to adequately evaluate the application. To the extent that actual data is not available for a new source, the applicant shall supply estimated or expected information.
- Z. All applications (and reapplications) shall be signed and certified by an "authorized representative" of the user as defined by this Article. The information required to be submitted with an application, including but not limited to, drawings, schematics, and site plans, shall be prepared and signed by a qualified Michigan licensed engineer unless otherwise approved in advance by the Director.

Sec. 118-77.05. Permit Issuance, Denial, or Determination that Permit not Required

- A. The Director shall evaluate the application information furnished by a user and may require additional information as necessary to complete and properly review the

application. No action shall be taken by the Director on an application (and the 120 day review period as provided by this subsection shall not begin to run) until the application is determined to be complete by the Director. Within 120 days after the submission of a complete application (unless the Director and the applicant agree to extend this time period), the Director shall either issue a User Permit subject to terms and conditions provided by this Article, deny the application, or determine that a permit is not required as provided by this Article.

B. A User Permit may be denied by the Director:

- (1) If the Director determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this Article;
- (2) If the user refuses, fails or declines to accept the terms and conditions of a permit as proposed to be issued by the Director;
- (3) For any reason that would support a suspension or revocation of the permit as provided by this Article
- (4) If the Director determines that the POTW cannot adequately or reasonably treat the user's discharge (due to insufficient capacity, the quality or quantity of the pollutants, available POTW resources etc.);
- (5) If the Director is not satisfied that the user has not taken all reasonable steps to prevent, minimize or reduce pollutants in the user's discharge;
- (6) To prevent the discharge of pollutants into the POTW, singly or in combination with other pollutants, for which there is a reasonable potential, as determined by the Director, to:
 - (a) Not meet applicable pretreatment standards and requirements;
 - (b) Interfere with the operation of the POTW;
 - (c) Pass through the POTW into the receiving waters or the atmosphere;
 - (d) Inhibit or disrupt the POTW's processing, use, or disposal of sludge;
 - (e) Cause health or safety problems for POTW workers; or

- (f) Result in a violation of the CRWRRFDD's NPDES permit or of other applicable laws and regulations;
- (7) If the Director determines that there is not, or will not be, sufficient capacity available (in both wastewater volume and strength) for a proposed discharge in all downstream sewers, pump stations, interceptors, and force mains, including, but not limited to, adequate capacity to accept, treat, and dispose of BOD, TSS, or similar materials as required by applicable local, state, or federal laws, rules, or regulations; or
- (8) For any other reason determined by the Director as necessary and appropriate to protect the POTW or to meet the purposes and intent of this Article.

Sec. 118-77.06. Permit Conditions

- A. User Permits shall be subject to all provisions of this Article and all other applicable regulations, user charges, and fees established by the Director. Further, User Permits incorporate by reference all provisions, regulations, and requirements of the Ordinance without setting them forth in full therein.
- B. Nondomestic User Permits shall at a minimum include all of the conditions required by MAC 323.2306(a)(iii). In addition, User Permits shall include any conditions determined reasonably necessary by the Director to prevent pass through or interference, to protect the quality of the receiving waters, to protect worker health and safety, to facilitate POTW sludge management and disposal, to protect ambient air quality, to protect against damage to the POTW, or to otherwise achieve the objectives of this Article, including, but not limited to, the following:
 - (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 - (2) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.
 - (3) Requirements for installation of pretreatment technology or construction of appropriate containment devices, or similar requirements designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

- (4) Development and implementation of slug discharge control plans, spill control plans, or other special conditions, including additional management practices necessary to adequately prevent accidental or unanticipated discharges.
- (5) Requirements for installation, maintenance, repair, calibration and operation of inspection and sampling facilities and discharge flow monitors.
- (6) Specifications for monitoring programs which shall include, but are not limited to, sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (7) Compliance schedules.
- (8) Requirements for submission of technical reports or discharge reports.
- (9) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Director and affording the Director access to those records.
- (10) Requirements for notifying the Director if self-monitoring indicates a violation as provided by Section 118-78.04 of this Article, and for repeat sampling and analysis as provided by Section 118-79.06 of this Article.
- (11) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW, including listed or characteristic hazardous waste for which the user has submitted initial notification under MAC R 323.2310(15).
- (12) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.
- (13) Requirements for notification of accidental or slug discharges, or discharges that exceed a discharge prohibition.
- (14) Requirements for notification and need for prior approval from the Director for any proposed change in a sampling location.
- (15) A statement regarding limitations on transferability of the permit.

- (16) A statement of the duration of the permit.
- (17) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable pretreatment standards and requirements, including those that become effective during the term of the permit.
- (18) Requirements for a written certification signed by the permittee that acknowledges that the permittee has read and fully understands all terms and conditions of the permit; and acknowledges that the permittee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the permit as approved.
- (19) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and compliance schedules.
- (20) Requirements regarding development by a user of a pollutant prevention, minimization or reduction plan (e.g., for mercury or PCBs) or requirements regarding use of best management practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants, or other substances to the POTW, or otherwise meet the purposes, policies and objectives of this Article.
- (21) Requirements regarding development by a user of a sampling plan for one or more pollutant parameters to be approved by the Director.
- (22) Terms, conditions, and requirements for a SAL if a SAL has been approved for the user.
- (23) Other conditions as determined necessary by the Director to ensure compliance with this Article and other applicable laws, rules and regulations.

If the Director determines that a user is discharging substances of a quality, in a quantity, or in a location that may cause problems to the POTW or the receiving stream, the Director has the authority to develop and enforce effluent limits applicable to the user's discharge.

Sec. 118-77.07. Permit Modifications

A User Permit may be modified by the Director at any time and for any reason determined necessary by the Director to assure compliance with the requirements of this Article and other applicable laws and regulations, including, without limitation, any of the following reasons:

- A. To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.
- B. Material or substantial changes or additions to the permittee's operations, processes, or the character or quality of discharge that were not considered in drafting or issuing the existing permit. It shall be the duty of a user to request an application form and to apply for a modification of the permit within 30 days of any such change(s). The Director may modify a permit on the Director's own initiative based on its findings or upon reasonable cause to believe that any such change(s) has occurred or threatens to occur.
- C. A change in any condition in the permittee's discharge, facility, production or operations, or in the POTW, that requires either a temporary or permanent reduction or elimination of the permittee's discharge to assure compliance with applicable laws, regulations or the CRWRRFDD's NPDES permit.
- D. Information indicating that the permitted discharge poses a threat to collection or treatment systems; the POTW's processing, use, or disposal of sludge; POTW personnel; or the receiving waters.
- E. Violation of any terms or conditions of the user's permit.
- F. Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required report or notice.
- G. Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the permit.
- I. To reflect transfer of the facility ownership and/or operation to a new owner or operator.
- J. To add or revise a compliance schedule for the permittee.

- K. To reflect changes or revisions in the CRWRRFDD's NPDES permit.
- L. To ensure POTW compliance with applicable sludge management requirements promulgated by EPA.
- M. To incorporate any new or revised requirements resulting from reevaluation of the POTW's local limits.
- N. To incorporate a request for modification by the permittee, as determined appropriate by the Director and provided the request does not create a violation of any applicable requirement, standard, law, rule or regulation.

The permittee shall be informed of any changes in the permit at least 30 days prior to the effective date of the change, unless a shorter time is determined necessary by the Director to meet applicable laws, to protect human health or the environment, or to facilitate an enforcement action.

Sec. 118-77.08. Permit Duration

- A. Nondomestic User Permits shall be issued for a specified time period, not to exceed five (5) years, subject to modification, reissuance, suspension or revocation as provided by this Section. At the sole discretion of the Director, a Nondomestic User Permit may be issued for a period less than five (5) years and may be stated to expire on a specific date.
- B. General User Permits may be issued for any time period determined appropriate by the Director, subject to modification, reissuance, suspension, or revocation as provided by this Section.

Sec. 118-77.09. Permit Reissuance

- A. To apply for reissuance of an existing User Permit, a user must submit a complete permit application to the Director accompanied by payment of an application fee at least ninety (90) days prior to the expiration of the user's existing permit (or at least 180 days prior to the expiration of a five (5) year permit). The application shall be submitted in a form prescribed by the Director. It shall be the responsibility of the user to make a timely application for reissuance.

- B. All User Permits issued to a particular user are void upon the issuance of a new User Permit to that user.

Sec. 118-77.10. Continuation of Expired Permits

An expired User Permit will continue to be effective until the permit is reissued only if: (a) the user has submitted a complete permit application at least 90 days prior to the expiration date of the user's existing permit (or at least 180 days prior to the expiration date of a five (5) year permit); and (b) the failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the user: provided, however, in no case may a permit continue for a period of more than five (5) years from the date of issuance. In all other cases, discharge to the POTW following expiration of a permit is unlawful.

Sec. 118-77.11. Permit Suspension and Revocation

User Permits may be suspended or permanently revoked by the Director for any reason determined necessary by the Director to assure compliance with the requirements of this Article, the CRWRRFDD's NPDES permit, or other applicable laws and regulations, including, without limitation, any of the following reasons:

- A. Falsifying self-monitoring reports.
- B. Tampering with monitoring equipment.
- C. Failure to allow timely and reasonable access to the permittee's premises and records by representatives of the POTW for purposes authorized by this Article, including, without limitation, inspection or monitoring.
- D. Failure to meet effluent limitations.
- E. Failure to pay fines or penalties.
- F. Failure to pay sewer charges.
- G. Failure to pay permit fees.
- H. Failure to meet compliance schedules.

- I. Failure to comply with any term or condition of the permit, an order, the requirements of this Article, or any final judicial order entered with respect thereto.
- J. Failure to comply with any reporting or notice requirement.
- K. Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.
- L. Failure to complete a wastewater survey or the User Permit application.
- M. As determined by the Director, the discharge permitted by the permit has a reasonable potential to endanger human health or the environment and the threat can be abated only by suspension or revocation of the permit.

Upon suspension or revocation of a permit, a user shall immediately terminate its discharge to the POTW and shall not thereafter recommence discharge without further authorization from the Director as provided by this Article. The Director may reissue a revoked permit upon a showing satisfactory to the Director that the permittee has corrected the violation or condition that led to the revocation. A person who has had a permit revoked may apply for a new permit.

Sec. 118-77.12. Limitations on Permit Transfer

- A. A User Permit is issued to a specific user for discharge from a specific facility and operation and shall not be assigned or transferred or sold to a new or different owner, operator, user, discharger, facility or premises, or to a new or changed facility or operation, without the prior written approval of the Director. If the transfer of a permit is approved, any succeeding transferee permittee must also comply with the terms and conditions of the existing permit. The Director may approve (but shall not be required to approve) the transfer of a permit only if all of the following conditions are met:
 - (1) The transferor (permittee) shall give at least 60 days advance notice to the Director of the proposed transfer of the permit (unless a shorter notice period is approved by the Director in advance). The notice shall include a written certification signed by the proposed transferee that (a) states that the transferee has no present intent to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying

with the existing permit if the transfer is approved. If any change in the facility's operations is anticipated, the transfer shall not be approved and a new permit must be obtained by the proposed transferee.

- (2) As of the date of the proposed transfer, there are no outstanding violations of the permit, and there are no unpaid charges, fines, penalties or fees of any kind due to the POTW from the transferor or the transferee related to use of the POTW.
 - (3) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.
 - (4) The permit transfer fee as established by the Director has been paid to the Director.
- B. If the transfer of a permit is approved and the permit transfer fee has been paid to the Director, the Director shall make the necessary minor modifications to the permit to show the transferee as the permittee, and a copy of the permit shall be provided to the transferee for signature and certification by the transferee as provided by Section 118-78.11 of this Article. The transferor (permittee) shall remain liable for any discharges to the POTW from the facility (along with any other persons actually discharging from the facility to the POTW) until a transfer of the permit has been approved as provided by this Section.
- C. This Section is not intended to, and shall not be construed to, limit in any way the transfer of ownership of the property involved.
- D. Any attempt to transfer a User Permit that does not comply with the requirements of this Section renders the permit void as of the date of the invalid transfer.

Sec. 118-77.13. Duty to Provide Information

Users shall furnish to the Director any available information that the Director requests to determine whether cause exists for modifying, revoking and reissuing, or terminating a User Permit, to determine compliance with a permit, to determine whether a permit is required, or as otherwise determined necessary by the Director. Users shall also, upon request, furnish to the Director copies of any records required to be kept by a permit. The information and records

requested by the Director shall be provided by the user to the Director within twenty-four (24) hours of the request, unless an alternative time frame is specified by the Director when making the request or unless the Director allows additional time for the user to submit the requested information based on a showing by the user of good cause for any delay. The user's failure to submit the requested information to the Director within twenty-four (24) hours (or within any alternate time period approved by the Director as provided by this Section) shall constitute a violation of this Article.

Sec. 118-77.14. Permit Appeals

Except as otherwise provided by this Section, an appeal to the Wastewater Board of Appeals ("WBA") of any final decision made by the Director in connection with issuing or implementing a User Permit shall be governed by Section 118-88 of this Article. An appealing party must specify in its notice of appeal the action of the Director being appealed and the grounds for the appeal. If a particular permit provision is objected to, the notice of appeal must specify the reasons for the objection, and the alternative provision, if any, sought to be placed in the permit. The effectiveness of a permit or any final decision made by the Director shall not be stayed pending a decision by the WBA. If, after considering the record on appeal including any statements provided by the Director in response to the appeal, the WBA determines that a permit or any provision of a permit should be reconsidered, the WBA shall remand the matter to the Director for further action as determined appropriate by the WBA. Specific provisions of a permit that are remanded by the WBA for reconsideration by the Director shall be stayed pending further final action taken by the Director as required by the decision of the WBA. A decision of the WBA not to remand any matter shall be considered final administrative action for purposes of judicial review.

Sec. 118-77.15. Permits Not Stayed

Except as otherwise expressly provided by Section 118-77.14, no action taken or request filed by any permittee shall operate to stay the effect of any permit or of any provision, term or condition of any permit, including, without limitation, a request for permit modification, reissuance, or transfer, or a notification of planned changes or anticipated noncompliance.

Sec. 118-77.16. Permit Fees

User Permit fees shall be established, paid, and collected as provided by this Section and Section 118-92 of this Article.

DIVISION 8. REPORTING AND NOTICE REQUIREMENTS

All users shall comply with the minimum reporting and notice requirements provided by this Section, as follows:

Sec. 118-78.01. Reports By Nondomestic Users Regarding Categorical Pretreatment Standards and Requirements

- A. Baseline Monitoring Reports. Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under MAC R 323.2311(2) whichever is later, an existing Nondomestic User subject to the categorical pretreatment standards and that currently discharges or is scheduled to discharge to the POTW shall submit a report to the Director as required by MAC R 323.2310(2). At least 90 days prior to commencement of discharge, new sources, and sources that become Nondomestic Users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit the reports to the Director as required by MAC R 323.2310(2). Any changes to the information required to be submitted by a Nondomestic User pursuant to MAC R 323.2310(2)(a) through (e) shall be submitted by the user to the Director within 60 days of when the user becomes aware of the change.
- B. Reports on Compliance with Categorical Pretreatment Standard Deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standard or, in the case of a new source, following commencement of the discharge to the POTW, any Nondomestic User subject to categorical pretreatment standards and requirements shall submit the reports to the Director required by MAC R 323.2310(3).
- C. Periodic Reports on Continued Compliance. Any Nondomestic User subject to a categorical pretreatment standard, after the compliance date of the categorical pretreatment standard, or, in the case of a new source, after commencement of the discharge into the public sewer or POTW, shall submit the periodic reports to the Director required by MAC R 323.2310(4). These periodic reports shall be submitted at least once every six (6) months (during the months of June and December unless alternate months are approved by the Director), unless required more frequently by the applicable pretreatment standard, by the Director, or by the State. The reports shall include a record of all average and maximum daily flows during the prior six (6) month reporting period, except that the Director may require more detailed reporting of flows. All flows shall be reported on the basis of actual measurement unless the Director agrees, due to cost or infeasibility, to accept verifiable estimates of the average and maximum flows estimated

using techniques approved by the Director. If approved by the Director, the combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the Director, provided there has been no change to the elements composing the combined wastestream. The results of sampling of the discharge and analysis of pollutants appearing in the report shall be cross-referenced to the related flow and mass to determine compliance with National Categorical Pretreatment Standards. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the user shall submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the user.

Sec. 118-78.02. Reports Required for Nondomestic Users Not Subject to Categorical Pretreatment Standards

- A. All Nondomestic Users not subject to categorical pretreatment standards shall submit to the Director periodic reports providing information regarding the quality and quantity of wastewater and pollutants discharged into the POTW (including, without limitation, information regarding the nature, concentration (or mass), and flow of the discharge). These reports shall be based on sampling and analysis performed in the period covered by the report in accordance with the sampling, analysis, and monitoring requirements provided by Section 118-9 of this Article (except that historical sampling data shall not be used for the periodic compliance reports required by this Section 118-78.02).
- B. For Significant Industrial Users, the reports shall be submitted at least once every six (6) months for the preceding six (6) months (during the months of June and December unless alternate months are specified by the Director), unless required more frequently by the Director.
- C. If required by the Director for Nondomestic Users other than Significant Industrial Users, the reports shall be submitted at least once every twelve (12) months for the preceding twelve (12) months (during the month of October unless an alternate month is specified by the Director), unless required more frequently by the Director.
- D. The reports for all Nondomestic Users shall be submitted on forms provided by (or in a format required by) the Director, and shall include, without limitation, the volume of wastewater; the concentration of pollutants; the names of all person(s) responsible for operating and maintaining any pretreatment equipment, pretreatment processes, or responsible for wastewater management at the user's facilities, with a brief description of each person's duties; information regarding materials or substances that may cause

interference or pass through; and any other information deemed necessary by the Director to assess and assure compliance with applicable discharge requirements or to safeguard the operation of the POTW.

Sec. 118-78.03. Notice by User of Potential Problems

All Nondomestic Users, whether or not subject to categorical pretreatment standards, shall notify the Director immediately by telephone of all discharges by the user that could cause problems to the POTW, including, without limitation, accidental discharges, slug loadings, discharges of a non-routine, episodic nature, non-customary batch discharge, or discharges that exceed a discharge prohibition or limitation provided by this Article. The notification shall include available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken and required, and other available information as necessary to determine what impact the discharge may have on the POTW. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the user to prevent similar future discharges) shall also be provided by the user to be received by the Director within five (5) days of the incident.

Sec. 118-78.04. Notice by User of Violation of Pretreatment Standards

If sampling performed by a Nondomestic User indicates a violation, the user shall notify the Director within twenty-four (24) hours of becoming aware of the violation (and shall comply with other applicable requirements provided by Section 118-79.06 regarding repeat sampling and analysis).

Sec. 118-78.05. Notice by User of Changed Discharge or Change in User Status

- A. A Nondomestic User shall promptly notify the Director in advance of any substantial change in the volume or character of pollutants in its discharge, or of any facility expansion, production increase, or process modifications that could result in a substantial change in the volume or character of pollutants in its discharge.
- B. For purposes of this Section, "promptly" means as soon as reasonably possible, but in no event less than 60 days before the change.
- C. For purposes of this Section, "substantial change" includes, without limitation, any of the following:

- (1) The discharge of any amount of a pollutant not identified in the user's permit application or in the permit issued.
 - (2) An increase in concentration (or degree) of any pollutant that exceeds 10% of the concentration (or degree) for the pollutant as indicated in any report required under Section 118-78.01 or 118-78.02;
 - (3) An increase in discharge volume that exceeds 20% of the volume as indicated in any report required under Section 118-78.01 or 118-78.02.
 - (4) Any increase in the amount of any hazardous wastes discharged, including, without limitation, the hazardous wastes for which the user has submitted initial notification under Section 118-78.06 of this Article.
 - (5) The discharge of any ground waters purged for a removal or remedial action.
 - (6) The discharge of any pollutants that are present in the discharge due to infiltration.
 - (7) A change in discharge that may convert a Nondomestic User into a Significant Industrial User, or a Nondomestic User into a Categorical User.
 - (8) A change in discharge that would cause a change in the categorical standards that apply to the user.
- D. In determining whether to accept any changed discharge, or, if so, under what conditions, the Director shall evaluate the changed discharge pursuant to the general and specific discharge prohibitions under Section 118-76.01 and other applicable provisions of this Article. The user may be required to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a User Permit application.
- E. No user shall implement the planned changed conditions until and unless the Director or his/her designee has responded to the user's notice.
- F. This Section shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation provided by this Article or a permit.

Sec. 118-78.06. Notice By User Regarding Wastes That Are Otherwise Hazardous

Any Nondomestic User that discharges to the POTW a substance that, if disposed of other than by discharge to the POTW, would be a hazardous waste under 40 CFR Part 261 or under the rules promulgated under the state hazardous waste management act (Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended) shall notify the Director, the U.S. EPA Region V Waste Management Division Director, and the State hazardous waste authorities of the discharge as required by MAC R 323.2310(15).

Sec. 118-78.07. Notice by User Regarding Installation of New Pretreatment Facilities

Within five (5) days after completing installation of new pretreatment facilities, the user shall notify the Director in writing of the time and date when it intends to commence operation of the new facilities, and the identity of the person who will conduct any tests to be performed. The pretreatment facilities shall not be placed in regular operation until adequate tests have been conducted to establish that the discharges will comply with the requirements of this Article and other applicable laws and regulations. Upon prior written request by the Director, the user shall allow a representative of the POTW to observe the tests at the time they are conducted. The cost of the tests shall be paid by the user.

Sec. 118-78.08. Notice of Intent

- A. At least sixty (60) days before commencing or changing a discharge, each of the following persons shall submit a Notice of Intent to the Director for approval by the Director:
- (1) A person proposing to discharge any nondomestic wastewater not previously reported to the Director.
 - (2) A person taking possession or control of an existing facility that discharges or may discharge process wastewater into the POTW.
 - (3) A person constructing a new facility that will discharge process wastewater into the POTW.
 - (4) A person commencing or modifying a discharge of hazardous wastes that requires reporting under Section 118-78.06.

- B. The Notice of Intent shall be submitted in writing on a form provided by the Director and shall be accompanied by a payment of any fees established by the Director. It shall include sufficient information to allow the Director to evaluate the effect of the proposed discharge on the POTW and operations and to assure compliance with this Article.

Sec. 118-78.09. Other Reports and Notices Required by this Section or by Other Applicable Laws and Regulations

Users shall comply with all other reporting or notice requirements as provided by this Article, by any notice, order or permit issued under this Article, or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (Section 118-10), upset (Section 118-11), bypass (Section 118-12), and any other reports or notice requirements determined necessary by the Director to assess and assure compliance with the requirements of this Article.

Sec. 118-78.10. Requirements Applicable to All Required Reports, Notifications, and Applications

All reports, notifications, and applications submitted by a user to the Director as required by this Article (or by any order, permit or determination issued or made pursuant to this Article) shall meet the following requirements:

- A. All reports, notifications, applications and requests for information required by this Article shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, notification, application or request. The data shall be representative of conditions occurring during the applicable reporting period. If a pretreatment standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the Director or the applicable standard to determine compliance with the standard.
- B. If a user monitors any pollutant (or measures flow) more frequently than required by this Article or a User Permit, using the monitoring, sampling and analytical procedures as required by Section 118-79.01, the results of all such additional monitoring shall be included in any report or notification submitted pursuant to this Article.
- C. The Director may require that reports, notifications, and other required documents and data be submitted in a standardized format, as specified by the Director.

- D. If the POTW, instead of a user, collects all of the information, including flow data, required for a report required by Sections 118-78.01 or 118-78.02, the Director, in the Director's sole discretion, may waive the requirement that the report be submitted by the user.
- E. The reports, notifications, and other documents and data required to be submitted or maintained by this Article shall be subject to all of the provisions as specified by MAC R 323.2310(13).
- F. Written reports, notifications, and applications will be deemed to have been submitted to the Director, unless otherwise specified by the Director, as follows:
1. If mailed, on the date postmarked.
 2. The date of receipt of the report shall govern for reports, notifications, or applications which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, including, but not limited to, reports, notifications, or applications that are hand-delivered, faxed, or emailed.
 3. Written reports, notifications, and applications may be submitted to the Director by fax or email (or by any means other than mail or hand-delivery) only with the prior approval of the Director on a case-by-case basis. The report or notification shall be sent to the fax number or email address specified by the Director.
- G. All written reports, notifications, and applications submitted by mail or hand-delivery shall be sent or delivered to the address stated in the User Permit, or if there is no User Permit, then to the following address:
- Clinton River WRRF
155 North Opdyke
Pontiac, MI 48342
Attn: WRRF Superintendent
- H. If notice by telephone or fax is required or otherwise authorized by the Director, such notice shall be made to the following numbers, as appropriate:
- | | |
|--------------------------------|---|
| Oakland County Safety Dispatch | 248-858-0931 (24 hours) |
| Wastewater Treatment Plant: | 248-858-4325 (Mon – Fri 8:00 am to 4:30 pm) |
| Operator Emergency Number: | 248-978-8646 (24 hours/7 days) |

Wastewater Treatment Plant Fax: 248-452-9152 (24 hours/7 days)

Required oral emergency or accidental spill or slug notifications shall not be left on voicemail or sent by email.

- I. Failure to provide the reports, notifications, and applications required by this Article constitutes an independent violation of this Article. However, compliance with applicable reporting and notification requirements shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such report or notification relieve a user of any fines, penalties, or other liability that may be imposed by applicable laws or regulations. Further, the reporting and notification requirements required by this Article shall not be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Article or other applicable laws or regulations.

Sec. 118-78.11. Signature and Certification Requirements

All written reports, notifications, and applications required by this Article shall be signed and certified as follows:

- A. Required Signatures. The reports, notifications, and applications shall be signed by an "authorized representative" of the user as defined in Section 1.2 of this Article.
- B. Required Certification. The reports, notifications, and applications shall include the following certification statement:

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

- C. Exception. If the POTW elects to perform instead of the user all or any portion of the sampling or analysis otherwise required for a report or notification, the user will not be required to comply with the certification requirements for the sampling and analysis (or portion thereof) performed by the POTW.

DIVISION 9. SAMPLING, ANALYSIS AND MONITORING REQUIREMENTS

This Section provides the sampling, analysis and monitoring requirements applicable to users of the POTW. It does not apply to Domestic Users except as may be determined appropriate in specific cases by the POTW. All users required by this Article (or by any permit, order, decision or determination issued or made under this Article) to sample, monitor and analyze their discharges to the POTW shall do so according to the minimum requirements provided by this Section. Additional or more restrictive sampling, analytical or monitoring requirements may be required for a particular user by a permit, order, decision or determination issued or made under this Article.

Sec. 118-79.01. Sampling and Analytical Techniques and Procedures

All sampling, measurements, tests, and analyses of the characteristics of discharges to the POTW shall be performed in accordance with the procedures approved by the U.S. EPA contained in 40 CFR Part 136. If, as determined by the Director, the sampling and analytical techniques contained in 40 CFR Part 136 are not available, do not apply to the discharge or pollutants in question, are not appropriate under the circumstances for application to the discharge or pollutants in question, or where one or more alternate techniques are available under 40 CFR Part 136, sampling and analysis shall be performed using validated sampling and analytical methods and procedures approved or required by the Director.

Sec. 118-79.02. Sampling Frequency

Users shall sample their discharges to the POTW at a frequency necessary to assess and assure compliance with the requirements of this Article, any permit or order issued pursuant to this Article, all applicable pretreatment standards and requirements, other applicable state and federal laws and regulations, or as otherwise determined necessary by the Director consistent with the purposes and intent of this Article. At a minimum, all Significant Industrial Users shall sample their effluent two (2) times per year (once every six (6) months) or as often as provided by their permits, whichever is more frequent, and report the results to the Director. Each discharge point to the POTW shall be sampled and reported individually.

Sec. 118-79.03. Sample Types

Where representative samples are required to be taken for facilities for which historical sampling data does not exist (or if otherwise requested by the Director), a user shall take a minimum of 4 grab samples for pH, temperature, cyanide, phenols (T), residual chlorine, oil and grease, sulfide,

and volatile organics (and any other parameters designated by the Director), unless a greater number of grab samples is required in advance by the Director. For facilities for which historical sampling data is available, or under other circumstances determined appropriate by the Director, the Director may authorize a lower minimum number of grab samples (except that historical data shall not be used for periodic compliance reports as required by Section 118-78.02). In all cases, users shall take the minimum number of grab samples determined necessary by the Director to assess and assure compliance by users with applicable pretreatment standards and requirements. Grab samples may be required to show compliance with instantaneous minimum or instantaneous maximum discharge limits. For all other pollutants and sampling, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Director, as appropriate.

Sec. 118-79.04. Sampling Methods, Equipment and Location

- A. General. A user shall use the sampling methods, sampling equipment, and sampling location specified by the user's User Permit, or, in the absence of a permit, as otherwise required by the Director. If required by the Director, a user shall prepare and submit a sampling plan for the Director's approval, including any requirements or conditions specified by the Director.
- B. Contaminated groundwater. For discharges to the POTW from remedial actions related to leaking underground storage tanks or other sources of contaminated groundwater, the Director may require the following analyses or such other analyses as determined appropriate by the Director:
 - (1) Samples shall be analyzed for benzene, ethylbenzene, toluene and xylene using the latest methods approved by U.S. EPA.

- (2) For total petroleum hydrocarbons, samples shall be analyzed according to the latest methods approved by U.S. EPA.

Sec. 118-79.05. Costs of Monitoring, Sampling and Analyses

All required monitoring, taking of samples, and sample analyses, whether performed by the POTW or by a user, including, but not limited to, the costs or fees associated with inspection or surveillance, shall be at the sole cost of the user. For users with more than one outfall, each outfall monitored shall be charged separately.

Sec. 118-79.06. Self-monitoring

- A. Except as otherwise provided by this Article, self-monitoring shall be conducted by each Nondomestic User to insure compliance with all applicable requirements of this Article and other applicable laws and regulations.
- B. A user performing its own sampling shall submit the samples for analysis to a laboratory (which may include the user's own laboratory) approved by the Director.
- C. A user performing its own sampling or monitoring shall record and maintain for all samples and monitoring (including any sampling and monitoring associated with Best Management Practices) the date, exact location (which shall match sampling locations identified in the user's User Permit, as applicable), time (including start time and stop time) and method of sampling or measurement, and the name(s) of person(s) taking the samples or measurements; sampler programming information; the sample preservation techniques or procedures used; the full chain-of-custody for each sample; the dates the analyses were performed and completed; who performed the analyses; the analytical techniques and methods used; the detection limits and/or quantification level used per parameter; quality assurance/quality control (QA/QC) procedures used and QA/QC data; and the results of the analyses.
- D. If sampling performed by a user indicates a violation, the user shall notify the Director by telephone within twenty-four (24) hours of becoming aware of the violation. Within 5 days of becoming aware of the violation or noncompliance, the user shall submit a written report to the Director with the initial sample results. The written report shall also state the cause of the violation (if known or if there is suspected probable cause) and whether the user has taken or planned are any actions to correct or prevent future similar violations. 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

violation (unless required sooner by the Director). If the POTW has performed the sampling and analysis in lieu of the user, the POTW must perform the repeat sampling and analysis unless the Director notifies the user of the violation and requires the user to perform the repeat sampling and analysis. The user shall not be required to resample if (a) the POTW performs sampling at the user at a frequency of at least once per month, or (b) the POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user or the Director receives the results of the sampling that indicates the violation.

- E. If a user uses its own laboratory for sample analysis, the Director may require the user to send split samples to an independent laboratory at a frequency specified by the Director as a quality control check.
- F. Users required to do monthly sampling shall submit sample results to the Director by the fifteenth (15th) day of the following month, unless specified otherwise in the user's User Permit.

Sec. 118-79.07. Sampling and Analyses Performed by POTW

- A. The sampling and analysis required by this Article may be performed by the POTW instead of the user, as determined necessary by the Director for purposes of this Article. The Director shall provide the user with copies of analytical results prepared by the POTW. If the results of any sampling and analysis performed by the POTW instead of the user show that a pretreatment standard has been violated, the Director shall provide the user with copies of the analytical results within ten (10) days after the results are available.
- B. If the POTW performs the required sampling and analysis for a user, the user shall pay a sampling fee to the POTW to fully reimburse the POTW for the sampling and analysis, including administrative and overhead costs. The POTW may contract with an independent firm to perform the sampling and analysis and the user shall fully reimburse the POTW for all costs incurred by the POTW in connection with the sampling and analysis, including any administrative and overhead costs.

Sec. 118-79.08. Split Samples and Sample Results

- A. If requested by the Director, the POTW shall be provided with splits of any sample taken by a user. The user shall provide splits to the POTW at no cost to the POTW.

- B. If requested by a user prior to the collection of a sample of the user's discharge, the POTW shall leave a portion of the sample of the discharge taken from any sampling point on or adjacent to the premises for the user's independent analysis.
- C. In cases of disputes arising over split samples, the portion taken and analyzed by the POTW shall be controlling unless proven invalid. The burden of proving the POTW's results invalid shall be on the user and at the user's sole cost.

Sec. 118-79.09. Maintenance, Repair and Calibration of Equipment

- A. A user who performs self-monitoring shall contract with an independent company (unless the requirement to use an independent company is waived in advance by the Director as determined appropriate by the Director) to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the user.
- B. The maintenance, repair, and calibration shall be performed as often as necessary to ensure that monitoring data is accurate and representative (but in no event less frequently than twice in a calendar year at reasonable intervals), consistent with the accepted capability of the type of equipment used, and shall be at the sole cost of the user.
- C. A user shall keep a complete and accurate written record of all calibrations, inspections and maintenance done (including, without limitation, the date and time of the activity, a description of what was done and the methods used, the names of persons conducting the activity, and any required or recommended follow-up). The record shall also include a description of all problems discovered regarding the equipment whether in response to a regularly scheduled inspection or otherwise.
- D. The POTW, in any event, may inspect and test a user's sampling and flow measurement equipment and instruments at all times.
- E. In no case shall a user's failure to keep its equipment, instruments and facilities in good working order constitute grounds for the user to claim that sample results are not representative of its discharge.

Sec. 118-79.10. Required Sampling Structures and Devices

- A. The Director may require any user to install suitable control structures (such as sampling manholes or sampling vaults) and necessary measuring and sampling devices (including wastewater flow meters and automatic samplers) to facilitate the observation, sampling,

and measurement of the quantity, composition, and concentrations of discharges to the POTW. The Director may require the user to install control structures and measuring and sampling devices at every discharge point and/or outfall. Further, multiple separate and discrete building sewers, control structures, and measuring and sampling devices may be required for a single user, premises, building, facility or user, as determined necessary by the Director. The structures and devices shall be maintained at all times in a safe, clean and proper operating condition at the sole expense of the user.

- B. There shall be ample room in or near the control structure to allow accurate monitoring, measuring, sampling and preparation of samples for analysis, as determined necessary by the Director. At a minimum, all sewers shall have an inspection and sampling manhole or structure with an opening of no less than 24 inches in diameter and an internal diameter of no less than thirty-six 36 inches containing flow measuring, recording and sampling equipment as required by the Director to assure compliance with this Article.
- C. Any temporary or permanent obstruction for safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the verbal or written request of the Director and shall not be replaced. The costs of clearing such access shall be borne solely by the user.
- D. The location and complexity of the required control structure or devices may vary with sampling requirements determined necessary by the Director to protect the POTW and to comply with applicable laws and regulations.
- E. The required sampling structures and devices shall be constructed and installed at the user's sole expense in accordance with plans submitted to the Director, and in compliance with all applicable local construction standards and specifications. Users shall submit to the Director plans and specifications for construction or modification of monitoring facilities at least thirty (30) days before the proposed commencement of construction or modification. If a user constructs or modifies monitoring facilities before the Director's approval or without an inspection during construction and the Director determines that the monitoring facilities are not acceptable, then the user shall at its cost reconstruct or modify the monitoring facilities according to the requirements of the Director. Construction shall be completed within ninety (90) days following written notification by the Director, or within such other shorter or longer time period specified by the Director as required by the particular circumstances to meet the requirements of this Article. The structures and devices shall be operated and maintained by the user at the user's sole expense so as to be safe and accessible to POTW personnel at all times and so as to provide accurate and representative monitoring data. If a user fails to install or maintain a

required structure or device, the Director may do so and charge the costs to the user. No person shall use a required control structure for any purpose other than the sampling and monitoring activities specifically approved by the Director.

- F. The sampling structures and devices must be provided on the user's premises as approved by the Director, but the Director may, if the Director determines that such a location would be impractical or cause undue hardship to the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
- G. Samples shall be taken at a control structure approved by the Director. However, in the absence of a suitable control structure as required by this Section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with a regulated process wastestream prior to pretreatment, the user must measure the flows and concentrations necessary to allow use of the combined wastestream formula under MAC R 323.2311(7) or other methods required by the Director to evaluate compliance with applicable pretreatment standards and requirements.
- H. No user shall change monitoring points or monitoring methods without first notifying and receiving the approval of the Director. The Director shall not approve any change in a user's monitoring point or points that would allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.
- I. A user shall allow the POTW access to all sampling and monitoring facilities as provided by Section 118-87.01 of this Article.

Sec. 118-79.11. Determination of Flow

The Director may require a user to determine the amount of wastewater flow discharged to the POTW from a user's Premises, using any method as determined appropriate by the Director and subject to the Director's review and approval, including, but not limited to, the following:

- (A) If the premises are metered, the amount of water supplied to the premises as shown by the water meter;
- (B) If the premises are supplied with river water or water from private wells, the Director may estimate the amount of water supplied from such sources based on the water, gas or

electric supply to the Premises, or may require that the water flow be measured using a certified meter approved by the Director;

- (C) If the premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be (or is not) entirely discharged to the POTW, the Director may require the user to estimate the amount of wastewater discharged to the POTW based on the water, gas or electric supply to the Premises;
- (D) The Director may determine the amount of wastewater discharged to the POTW based on measurements and samples taken by the POTW from a manhole installed by the owner of the premises, at the owner's sole expense, as required by the Director under this Article;
- (E) The Director may require a wastewater flow meter in a manhole installed by the owner of the premises, at the owner's sole expense; or
- (F) The Director may determine the amount of wastewater discharged to the POTW from a premises using a combination of any of the above methods, or using any other method determined appropriate by the Director.

DIVISION 10. ACCIDENTAL DISCHARGES

Sec. 118-80.01. General

This Section sets forth minimum requirements for Nondomestic Users (and any other users as required by the Director) to prepare for, respond to, and report, accidental discharges to the POTW. Additional or more restrictive requirements may be required for particular users under a User Permit, a slug control plan, or by other applicable laws and regulations.

- A. Each Nondomestic User shall provide and continuously maintain protection from accidental discharge of materials or other substances regulated by this Article as provided by this Section. The POTW may refuse to accept current or proposed discharges from any user that fails to comply with the requirements of this Section.
- B. Detailed plans showing facilities and operating procedures to provide the protections required by this Section shall be submitted to the Director for review prior to construction of the facilities. All existing users shall submit the required plans and information with their permit applications or upon request of the Director. For new sources, facilities and operating procedures to provide the protections required by this Section shall be approved by the Director prior to commencing discharge. No user who commences discharging to

the POTW after the effective date of this Article shall be permitted to introduce pollutants into the system until accidental discharge facilities and procedures as provided by this Section are in place and have been approved by the Director.

- C. Facilities to prevent accidental discharge of regulated materials or substances shall be provided and maintained at the user's cost and expense. Review and approval by the Director of plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this Article. Compliance with the requirements of this Section shall not relieve a user of any expense, loss, damage, or other liability that may be incurred as a result of damage to the POTW, or for any other damage to persons or property, or for any other liability that may be imposed under this Article or under other applicable laws and regulations.
- D. No change shall be made in any plan or procedure approved by the Director as provided by this Section without the prior review and approval of the Director.
- E. All users shall notify the Director in writing within five (5) days of any change in the information required to be provided to the Director as set forth below in this Section (including, without limitation, information regarding the person in charge of discharge operations, the description of chemicals stored, used or manufactured by the user, the description of user discharges, and the description of user premises).

Sec. 118-80.02. Designation of Person in Charge of Discharge Operations

Each Nondomestic User shall designate at least one person to be in charge of and responsible for the user's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges ("person in charge"). The person so designated shall be an individual with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the user, and of all process alterations that could, in any manner, increase or decrease normal daily flow or waste strength to the POTW. The names of the person (or persons) designated as provided by this Section and a phone number where the person can be reached for 24-hour contact shall be submitted by each user to the Director.

Sec. 118-80.03. Description of Chemicals Stored, Used or Manufactured by User; User Discharges; User Premises

Unless the Director determines that all of the following information has already been appropriately provided to the POTW pursuant to other requirements of this Article, each Nondomestic User shall:

- A. Catalog all chemicals stored, used, or manufactured by the user at the user's premises. The list of chemicals shall include specific chemical names (not just manufacturer's codes) and shall be provided to the POTW.
- B. Provide the POTW with a written description of the user's discharge practices, including an estimate of daily average flows, waste strengths, and flow types, separated according to appropriate categories including process, cooling, sanitary, etc.
- C. Provide to the POTW a detailed, scaled professionally prepared drawing of the user's plant building(s), including the location of pretreatment equipment, process and chemical storage areas, waste storage areas, floor drains located near process and storage areas, manhole or other control structures, and sewer locations at the user's point of discharge into the POTW.

Sec. 118-80.04. Segregation of Wastewaters Requiring Pretreatment

Nondomestic Users shall segregate wastewaters requiring pretreatment (including, without limitation, spent concentrates, toxics, and high strength organic wastes) as necessary to prevent pollutants from interfering with or passing through the POTW. All sludges generated by pretreatment shall be used and disposed of only as permitted by applicable local, state and federal laws and regulations.

Sec. 118-80.05. Secondary Containment Requirements

- A. Each Nondomestic User must provide and maintain at the user's sole expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to protect all floor drains from accidental spills and discharges to the POTW of any pollutants or discharges regulated by this Article.
- B. The containment or curbing for indoor areas shall be sufficient to hold not less than 150% of the total process area tank volume and not less than 150% of liquid polluting material

stored or used, unless a lesser containment area or alternate control measures are approved in advance by the Director.

- C. The containment area shall be constructed so that no liquid polluting material can escape from the area by gravity through the building sewers, drains, or otherwise directly or indirectly into the POTW. All floor drains found within the containment area must be plugged and sealed.
- D. Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks.
- E. Emergency containment shall also be provided for storage tanks that may be serviced by commercial haulers and for chemical storage areas.
- F. Solid pollutants shall be located in security areas designed to prevent the loss of the materials to the POTW.
- G. Detailed plans showing facilities and operating procedures to provide the protection required by this Section shall be submitted to the Director for review, and shall be approved by the Director before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the Director.
- H. No new source shall be permitted to discharge to the POTW until emergency containment facilities have been approved and constructed as required by this Section.
- I. The Director may order a user to take interim measures for emergency containment as determined necessary by the Director under the circumstances.

Sec. 118-80.06. Submission of Pollution Incident Prevention Plan

- A. Each user required to develop a pollution incident prevention ("PIP") plan as provided by Part 5 of the Michigan Water Resources Commission Rules, 1979 ACR 323.1151 et seq., as amended (promulgated pursuant to Part 31 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.3101 et seq., as amended), shall submit a copy of that plan to the Director.
- B. The PIP Plan shall be submitted to the Director within sixty (60) days of the effective date of this Article for an existing source, or thirty (30) days prior to the date of discharge for a new source.

Sec. 118-80.07. Posting of Accidental Discharge Information

All Nondomestic Users shall post a clearly legible set of instructions in the area where the user manages wastewater so that the applicable reporting and notice requirements are made known and are available to the user's employees. In addition, all Nondomestic Users shall instruct their employees on the applicable reporting and notice requirements of this Section.

Sec. 118-80.08. Notice of Accidental Discharge

- A. In the case of an accidental discharge, a user shall immediately notify the POTW of the incident by telephone.
- B. The notification shall include the name of the person placing the call, the name of the user, and all available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions taken in response to the discharge and required to prevent future violations, and other available information as necessary to determine what impact the discharge may have on the POTW.
- C. A detailed written report providing the same and any additional available information (including specifying the measures that will be taken by the user to prevent similar future discharges) shall also be provided by the user to the Director within five (5) days of the incident.
- D. Providing notice of an accidental discharge shall not relieve a user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notice relieve a user of any fines, civil penalties, or other liability which may be imposed by this Article or other applicable law.

Sec. 118-80.09. Slug Control Plan

- A. Each Significant Industrial User shall prepare and implement an individualized slug control plan to address notification, slug and/or spill prevention, containment, spill cleanup, and employee training. Existing Significant Industrial Users shall submit a slug control plan to the Director for approval within ninety (90) days of the effective date of this Article. New sources that are Significant Industrial Users shall submit a slug control plan to the Director for approval before beginning to discharge. Upon written notice from the Director, Nondomestic Users that are not Significant Industrial Users may also be

required to prepare and implement a slug control plan, and the plan shall be submitted to the Director for approval as specified in the notice.

- B. Slug control plans must also be submitted for review and approval by the Director:
- (1) As part of a user permit application and before the permit is issued; and an updated plan may be required in connection with any permit modification or reissuance; and
 - (2) The Director may also require a new or updated plan before constructing any new facilities.
- C. Approval of a slug control plan shall not relieve a user from complying with laws and regulations governing handling of hazardous substances.
- D. All slug control plans shall contain at least the following elements:
- (1) A description of discharge practices, including non-routine batch discharges;
 - (2) A description of stored chemicals, raw materials, and waste;
 - (3) The procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this Article, and procedures for follow-up written notification within five (5) days of the discharge;
 - (4) The procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.
 - (5) A description of any Best Management Practices required by a pretreatment standard or requirement, a user permit, or other applicable laws and regulations.
- E. If a user has submitted to the Director plans or documents pursuant to other requirements of local, state or federal laws and regulations which meet all applicable requirements of

this Section 118-80.09, the Director, in the Director's sole discretion, may determine that the user has satisfied the slug control plan submission requirements of this Section.

DIVISION 11. UPSET AND ADDITIONAL AFFIRMATIVE DEFENSES

Sec. 118-81.01. Upset

An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all of the requirements of Section 118-81.01(A), below, are met. However, in the event of an upset, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Article. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- A. Conditions Necessary to Demonstrate Upset. A user seeking to establish the affirmative defense of upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence, all of the following:
- (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 workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - (3) The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission containing the same information must be provided within five (5) days of becoming aware of the upset):
 - (a) A description of the discharge and cause of non-compliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
 - (c) The steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- B. User Responsibility in Case of Upset. The user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable 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 the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Sec. 118-81.02. Additional Affirmative Defenses

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions under Section 118-76.01(A) and specific prohibitions under Sections 118-76.01(B)(4), (5), (6) or (7) if the user can demonstrate that all of the conditions necessary to establish the defense under MAC R 323.2303(3)(a) and (b) are met. However, even if the affirmative defense is established, the user may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Article. In any enforcement proceeding, the user seeking to establish the affirmative defenses provided by MAC R 323.2303(3) shall have the burden of proof.

DIVISION 12. BYPASS

Sec. 118-82.01. Bypass Not Violating Applicable Pretreatment Standards or Requirements

A Nondomestic User may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if the bypass is for essential maintenance to assure efficient operation. A bypass that meets the requirements of the preceding sentence of this Section is not subject to the provisions in Sections 118-82.02, 118-82.03, and 118-82.04. However, nothing in this Section shall be construed to authorize a discharge that exceeds a discharge prohibition or limitation under this Article or other applicable laws or regulations; nor to relieve a user for any expense, loss, damage, or liability that may be incurred as a result of the bypass, such as damage to the POTW, fish kills, or any other damage to person or property; nor to relieve the user of any fines, penalties or other liability that may be imposed by applicable laws or regulations as a result of the bypass.

Sec. 118-82.02. Bypass Prohibited

Except as provided by Section 118-82.01, the bypass of industrial wastes from any portion of a user's facility is prohibited, and shall be subject to enforcement action, unless all of the following apply:

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

- B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime. (This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventative maintenance.)
- C. The user submitted the notices as required under Section 118-82.03.

Sec. 118-82.03. Required Notices

- A. Anticipated bypass. If a user knows in advance of the need for a bypass, it must submit prior notice of the bypass to the POTW. Such notice shall be submitted to the Director as soon as the user becomes aware of the need for the bypass, and if possible, at least ten (10) days before the date of the bypass.
- B. Unanticipated bypass. A user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within twenty-four (24) hours from the time the user 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.

Sec. 118-82.04. POTW Approved Bypass

The Director may approve an anticipated bypass after considering its adverse effects, if the Director determines that it meets the conditions set forth in Sections 118-82.02(A), 118-82.02(B) and 118-82.02(C). It shall be a violation of this Article for a user to allow an anticipated bypass to occur without the prior approval of the Director.

DIVISION 13. CONFIDENTIAL INFORMATION

Sec. 118-83.01. Confidential Information

The following provisions shall apply regarding the treatment by the POTW of confidential information submitted to or obtained by the POTW in the administration of this Article:

- A. Except as otherwise expressly provided by this Division, all information and data regarding a user's discharges obtained from reports, questionnaires, permit applications, permits, monitoring activities, and from inspections is subject to disclosure to the public and other governmental agencies pursuant to the Michigan Freedom of Information Act (MCL 15.231, et seq.; Act No. 442 of the Public Acts of 1976, as amended).
- B. Information submitted to the POTW in the administration of this Article may be claimed by the user as confidential and not subject to public disclosure, only if all of the following requirements and conditions are met:
 - 1. The information sought to be kept confidential qualifies as a protected trade secret or commercial or financial information as determined by the appropriate public official or is otherwise exempt from public disclosure under Act No. 442 of the Public Acts of 1976, as amended, (MCL 15.231 et seq. (the Michigan Freedom of Information Act).
 - 2. The user specifically requests at the time that the information is submitted that the release of the information would divulge information, processes, or methods of production entitled to protection as trade secrets or commercial or financial information of the user.
 - 3. The information submitted by a user for which confidentiality is requested shall be clearly marked using the words "confidential business information" on each page as to the portion or portions considered by the user to be entitled to protection as trade secrets or commercial or financial information of the user; and shall be accompanied by a written explanation of why the user considers the information to be confidential or why the release of the information would divulge information entitled to protection as trade secrets or commercial or financial information.
- C. If information is determined to be protected as a confidential and not subject to public disclosure as provided by this Division, the information shall be treated as provided by

this Division and applicable state and federal laws and regulations governing confidentiality of information submitted by users to the POTW; provided, however, that all such information shall nevertheless be made available upon written request to governmental agencies for uses related to matters regulated by this Article and shall be made available for use by the State, any State agency, or the POTW in judicial review or enforcement proceedings that involve the user that submitted the information.

- D. Claims of confidentiality for the following information shall be denied and shall be subject to public disclosure as provided by this Division: Information furnished to the POTW on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged by a user into the POTW. This shall include, but shall not be limited to, all information submitted on user permit applications; information associated with user monitoring or sampling results; information in required user reports and notifications; and information regarding flow measurements and other production data used to determine compliance with mass-based limits or to calculate or apply a combined waste stream formula.
- E. All confidential information and/or data with respect to a particular user that is on file with the POTW shall be made available upon written request by that user or its authorized representative during regular business hours.

DIVISION 14. RECORDS RETENTION

Sec. 118-84.01. Maintenance of Records

All users shall retain and preserve records, including, without limitation, all books, documents, memoranda, reports, correspondence and similar materials, related to matters regulated by this Article as provided by the minimum requirements of this Section or as provided by a permit or order issued pursuant to this Article.

- A. Discharge Records. A Nondomestic User shall retain, preserve, and make available to the POTW for inspection and copying, for the period specified in Section 118-84.01(C) all records related to matters regulated by this Article, including, without limitation, all documents, memoranda, correspondence and similar materials; copies of all required reports, notifications, and applications; all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation; copies of results of all sampling, monitoring, measurements and analyses; all documentation associated with Best Management Practices; all documentation associated with a required slug plan; and records of all data used to complete the application for a permit. Any

Nondomestic User subject to the sampling, monitoring, analysis, or reporting requirements of this Article shall maintain copies of all records and information pertaining to those requirements or resulting from any monitoring activities (whether or not such monitoring activities are required by this Article). For all samples, the records shall include, at a minimum, the information required to be recorded by Section 118-79.06 of this Article.

- B. Hazardous or Solid Waste. A Nondomestic User shall retain and preserve all records regarding its generation, treatment, storage, or disposal of hazardous waste or solid waste for the period specified in Section 118-84.01(C), and shall make them available to the POTW for inspection and copying, subject to the provisions in this Article regarding confidential information. (As used in this Section, the terms "hazardous waste" and "solid waste" shall have the same definition as provided in the state hazardous waste management act, Part 111 of Act 451 of the Public Acts of Michigan of 1994, MCL §§ 324.11101 et seq., as amended, and the rules promulgated under that act.)
- C. Retention Period. Users subject to the reporting requirements of this Article (or of any permit or order issued pursuant to this Article) shall retain the records specified in Sections 118-84.01(A) and 118-84.01(B) for a period of at least three (3) years from (a) the date the record was created or (b) the date the record was first used or relied upon by the user, whichever is later. The three (3) year retention period shall be extended during any administrative or judicial action, enforcement proceeding or litigation regarding matters regulated by this Article (or regarding discharges of the POTW under its NPDES permit), until all such actions, proceedings, or activities have concluded and all periods of limitation with respect to any and all appeals have expired. The three (3) year retention period may also be extended at any time at the request of the POTW, the MDEQ, or the U.S. EPA. The POTW shall retain all records, notices and other information regarding discharges to the POTW submitted to it by Nondomestic Users of the POTW for a period of not less than three (3) years.

DIVISION 15. ADMINISTRATION OF THE POTW

Sec. 118-85.01. Operation and Management of POTW

The operation, maintenance, alteration, repair and management of the POTW shall be under the supervision and control of the Director. The Director has the exclusive right to establish, maintain and collect rates and charges for use of the POTW. The Director may employ the persons in the capacities as the Director deems necessary and advisable to ensure the efficient and effective operation, maintenance, alteration, repair and management of the POTW, to

comply with the CRWRRFDD's NPDES permit, and to discharge its financial obligations. The Director may establish any laws, rules, regulations, and procedures as determined necessary by the Director to undertake the activities as provided by this Section and to otherwise meet the purposes and objectives of this Article.

Sec. 118-85.02. Powers of Director

The Director is authorized and empowered to take the following actions (either directly, or, as specified in this Article, through or in conjunction with authorized representatives of the City):

- A. Supervise the implementation of this Article.
- B. Review plans submitted by users for pretreatment equipment.
- C. Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered sampling, metering, or pretreatment equipment to determine compliance with the provisions of this Article.
- D. Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by users.
- E. Determine and assess IPP fees and surcharges as provided by this Article.
- F. Investigate complaints of violations of this Article, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.
- G. Issue orders and notices of violation and take other actions as necessary to require compliance with this Article.
- H. Develop and implement a Control Authority Enforcement Response (CAER) Plan as required by 40 CFR 403.8(f)(5). The CAER Plan shall provide procedures for the POTW to investigate and respond to instances of noncompliance by users. The CAER Plan and any associated regulations shall be developed by the Director.
- I. With the approval of the City, and in conjunction with the City's legal counsel, institute necessary civil or criminal judicial legal actions and proceedings in a court of competent jurisdiction against all users violating this Article to prosecute violations of this Article, to compel the abatement or prevention of violations, to compel compliance with this

Article and any order, determination, permit or agreement issued or entered into under this Article, and to pursue any other necessary or advisable legal and/or equitable judicial relief or remedies with respect to violations of this Article.

- J. In conjunction with the City's legal counsel, commence a municipal civil infraction action against any user violating this Article, and issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this Article.
- K. Perform any other actions authorized by this Article, or as necessary or advisable for the supervision, management and operation of the POTW and the enforcement of this Article and other applicable laws and regulations.

DIVISION 16. USER POLLUTION CONTROLS

Sec. 118-86.01. Provision by Users of Necessary Pretreatment Facilities

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation, and as required to comply with the requirements of a User Permit or order issued pursuant to this Article. All facilities required to pretreat discharges shall be provided, operated, and maintained at the user's sole expense. Detailed, professionally signed and sealed plans showing the pretreatment facilities, specifications, and operating procedures shall be submitted to the Director for review and approval prior to construction. The Director may approve, approve with conditions, or disapprove the plans, specifications and operating procedures. A user shall not begin discharging from the treatment facilities until facilities have been approved and all conditions and requirements of the approval have been met as determined by the Director. The review and approval by the Director of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Director under the provisions of this Article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Director prior to the user's initiation of the changes. (Users shall notify the Director regarding the installation of new pretreatment facilities or modification of existing facilities as provided by Section 118-78.07 of this Article.)

Sec. 118-86.02. Proper Operation and Maintenance

A user shall at all times properly operate and continuously maintain, at the user's sole expense, all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the user to comply with the requirements of this Article. Proper operation and

maintenance includes, without limitation, effective performance, adequate funding (including replacement costs), adequate operator staffing, and adequate quality assurance/quality control (QA/QC) procedures for sampling and analysis, so as to provide adequate wastewater collection and treatment on a continuing basis, to conform with all local, state and federal laws and regulations, and to assure optimum long-term management of the facilities and system.

Sec. 118-86.03. Removed Substances

Solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall be disposed of in accordance with Section 405 of the Clean Water Act and Subtitles C and D of the Resource Conservation and Recovery Act, and other applicable local, state, and federal laws and regulations.

Sec. 118-86.04. Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation, or loss, or failure of all or part of a user's pretreatment equipment or facility, the user shall, to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable standards, requirements, and limits, control its production and all discharges until operation of the equipment or facility is restored or an alternative method of treatment is provided. This requirement applies in situations, including, without limitation, where the primary source of power for the pretreatment equipment or facility is reduced, lost, or fails. It shall not be a defense for a user in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Article.

Sec. 118-86.05. Duty to Mitigate

A user shall take all reasonable steps to minimize or correct any adverse impact to the POTW or the environment resulting from noncompliance with this Article, including such accelerated or additional monitoring as necessary to determine the nature and impact of the noncomplying discharge.

Sec. 118-86.06. Duty to Pretreat Prior to Discharge to POTW

Except as otherwise expressly required by this Article, by a User Permit, by an order or other determination of the Director, or by other applicable law or regulation, the prohibitions and limitations provided by this Article or a User Permit shall apply at the point where wastewater and pollutants are discharged or caused to be discharged into the POTW and any required pretreatment shall, at a minimum, be completed before that point of discharge is reached.

Sec. 118-86.07 Implementation of Best Management Practices or Best Management Practices Plan

- A. The Director may require any user to develop and implement Best Management Practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances from the user's premises to the POTW, as determined necessary by the Director.
- B. In addition, the Director may require a user to develop and submit a Best Management Practices Plan ("BMPP"), including an enforceable implementation schedule, for review and approval by the Director. The BMPP shall be submitted within thirty (30) days after notification by the Director or as otherwise required by a User Permit. The BMPP shall be directed at preventing the entrance of pollutants, directly or indirectly, into the POTW. The BMPP shall be available for inspection at all times at the user's premises. At a minimum, a user's BMPP shall contain all of the following elements, as determined necessary by the Director, at a level of detail and in units and terms as determined necessary by the Director to adequately evaluate the plan:
1. A statement of the purpose and objectives of the plan.
 2. A description of the strategies, methods, policies and procedures to prevent, minimize or reduce the introduction of pollutants into the user's discharge and to minimize waste generation.
 3. A description of the options available to the user to control accidental spillage, leaks and drainage.
 4. A description of best available or practicable control technologies available for the user's specific circumstances.
 5. A detailed facility layout and site diagram showing points of entry into the POTW.
 6. A description of the waste handling, treatment and discharge disposal facilities, including flow diagrams and process schematics.
 7. A description of operating and maintenance processes and procedures.

8. Inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.
 9. A description of employee training programs, policies and procedures; continuing education programs; and participation.
 10. A description of documentation, including record keeping and forms.
 11. A description of monitoring activities.
 12. Information log of facility personnel, organization chart, emergency phone numbers, contact persons and maintenance or service representatives.
 13. Certification by a qualified professional that the plan is adequate to prevent spills, leaks, slug loadings, or non-customary discharges of regulated substances, directly or indirectly, to the POTW.
 14. Such other information, documents or diagrams as required by the Director, including, but not limited to, any of the information required under Section 118-77.04 of this Article.
- C. The BMPs or BMPP required of a user or approved for a user shall be incorporated in a User Permit issued to the user. If the user already has a User Permit, the existing permit may be modified to incorporate the BMP requirements. If the user does not currently have a User Permit, a permit shall be issued for that purpose.
- D. The Director may require revisions to users BMPP if the Director determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the Director to ensure compliance with applicable requirements of this Article. Review of a BMPP by the Director shall not relieve the user from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

Sec. 118-86.08. FOG Interceptors; Alternative FOG Pretreatment Technology; Sand Traps.

- A. General Requirements Applicable To All FOG Interceptors; Alternative FOG Pretreatment Technology; and Sand Traps.

1. Any user required to install a FOG interceptor, an Alternative FOG Pretreatment Technology ("AFPT"), or a sand trap to prevent the discharge of fats, oils, grease, sand, or other materials to the POTW shall comply with the minimum requirements as provided by this Section or as otherwise specified by the Director.
2. Interceptors, AFPTs, and traps that are required by this Section shall be provided, cleaned, maintained in proper operating condition, and kept in continuously efficient operation at all times, at the sole expense of the owner of the premises.
3. All interceptors, AFPTs, and traps shall be of a design, type, construction, and capacity approved in advance by the Director.
4. The installation of all interceptors, AFPTs, and traps shall be subject to the Director's review and approval.
5. All interceptors, AFPTs, and traps shall be located so as to be readily and easily accessible for maintenance, cleaning and inspection.
6. All users required to install and maintain an interceptor, AFPT, or trap shall develop and carry out a system of maintenance and cleaning for the interceptor, AFPT, or trap, and shall keep accurate, detailed written records of the following:
 - (a) The maintenance and cleaning schedule;
 - (b) The names of the persons who maintained and cleaned the interceptor, AFPT, or trap, and the dates that the interceptor, AFPT, or trap was maintained and cleaned; and
 - (c) The method of cleaning and disposal location for removed materials for each maintenance and/or cleaning.
7. At a minimum, all interceptors, AFPTs, and traps shall be inspected, cleaned and maintained according to the manufacturer's specifications or as otherwise provided by this Section, whichever requirements are more stringent, at the property owner's expense.
8. All written records and documentation required to be kept by this Section with regard to interceptors, AFPTs, and traps shall be kept by the user on the premises

for at least three (3) years and shall be available for review by the Director during all operating hours. The user shall provide copies of required records to the Director upon the Director's request at the user's sole cost.

9. Any problems with or damage to an interceptor, AFPT, or trap shall be reported immediately to the property owner and to the Director.
10. Any problems with or damage to an interceptor, AFPT, or trap shall be rectified and/or repaired immediately by the property owner at the owner's sole cost.
11. Interceptor, AFPT, or trap clean-out material, including, but not limited to, accumulated fats, oils, grease, and sand, shall not be discharged into the POTW.
12. Bacteriological, chemical, or enzymatic products shall not be used to maintain or clean interceptors, AFPTs, or traps.
13. The Director may require sampling and testing of the effluent from an interceptor, trap, or AFPT to verify that the effluent complies with applicable pretreatment standards and requirements. The sampling and testing shall be conducted using the protocols and on a frequency as specified by the Director.

B. Requirements For FOG Interceptors and AFPTs.

A FOG interceptor or AFPT shall be required for all food service establishments (FSEs), and may also be required for any other user, premises, or establishment determined by the Director to have a reasonable potential to adversely affect the POTW due to discharges of FOG.

1. Outdoor FOG Interceptors.
 - a. Outdoor FOG Interceptors Required. All FSEs shall install, operate, and maintain an outdoor FOG interceptor of a type, design, construction, and size approved in advance by the POTW; provided that if the Director determines that installation of an outdoor FOG interceptor would not be economically and/or technically feasible due to existing circumstances unique to the premises in question, the Director may instead allow the installation of Alternative FOG Pretreatment Technology as provided by Section 118-86.08(B)(2). In all cases, the user shall bear the burden of demonstrating to the Director, at the user's sole cost, that the installation

of an outdoor FOG interceptor is not feasible and that an alternative FOG pretreatment technology should instead be allowed.

b. Compliance Schedule.

Existing FSEs/Users: Any FSE discharging into the POTW as of the effective date of this Article (and any other existing user determined by the Director to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall, upon notification from the Director, submit plans for an outdoor FOG interceptor for approval by the Director, and shall install and begin operation of the interceptor, in compliance with the schedule specified by the Director.

New FSEs/Users: Any FSE that proposes to commence discharging into the POTW after the effective date of this Article (and any other new user determined by the Director to have a reasonable potential to adversely affect the POTW due to discharges of FOG) shall submit plans for an outdoor FOG interceptor to the Director for the Director's approval, and shall install and begin operation of the interceptor in compliance with the schedule specified by the Director. In all cases, the interceptor plans must be approved by the Director prior to submitting plans to the City for a building permit; and the City shall not issue a building permit for the premises until the POTW has approved the proposed interceptor plans. Further, the City shall not issue a certificate of occupancy for the premises until the interceptor has been installed and deemed acceptable by the Director.

c. Minimum Design and Installation Requirements For Outdoor FOG Interceptors. Outdoor FOG interceptors shall comply with all of the following minimum design and installation requirements and with other requirements under applicable County regulations:

- (i) The interceptor shall provide a minimum capacity of 1500 gallons, unless the Director determines that a smaller minimum capacity is adequate for the premises.
- (ii) The interceptor shall have a minimum of two compartments with fittings designed for FOG retention.

- (iii) The interceptor shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.
 - (iv) The interceptor shall be installed at a location, subject to the prior approval of the Director, where it can be easily accessible for inspection, cleaning, and removal of intercepted FOG, but shall not be located in any part of a building where food is handled.
 - (v) Access manholes, with a minimum diameter of 24 inches, shall be provided over each outdoor FOG interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade, and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, FOG removal, and sampling which, when bolted into place, shall be gastight and watertight.
- d. Minimum Inspection, Maintenance, and Cleaning Requirements for Outdoor FOG Interceptors. Outdoor FOG interceptors shall comply with all of the following minimum maintenance, cleaning, and inspection requirements:
- (i) At a minimum, an outdoor FOG interceptor shall be inspected monthly by the property owner or operator, or more often if dictated by site-specific conditions or if required more frequently by the Director.
 - (ii) Pump-out of all accumulated FOG, water, and sludge shall occur quarterly at a minimum, or more often if the combined height of floatables and settled solids (including both the top and bottom layers of solids) exceed 25% of any interceptor compartment operating depth; if there is a visible discharge of FOG; or if required more frequently by the Director. The operating depth of a trap shall be determined by measuring the internal depth from the outlet water elevation to the bottom of the trap.
 - (iii) Each pump-out of the interceptor shall be complete and remove all contents, including removal of the entire grease mat, liquids, sludges, and solids from screens, baffles, air-relief chambers, and

wash down of interior walls. The interceptor shall be refilled with clear water before being returned to service.

- (iv) The interceptor shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could reduce the effective volume for FOG and sludge accumulation.
- (v) Water removed during pump-out shall not be returned to the interceptor, and accumulated FOG and sludge shall not be re-introduced into any drainage piping leading to the public sewer.
- (vi) Sanitary wastes shall not be discharged to sewer lines serviced by an outdoor FOG interceptor without specific prior approval by the Director.
- (vii) The pump-out operation and disposal of the accumulated FOG, water, and sludge shall be done only by a licensed contractor and shall be witnessed by the property owner or operator. The Director shall be notified prior to any scheduled pump-out so that the operation can be witnessed by the Director, if desired.

2. Alternative FOG Pretreatment Technology.

If the Director determines that installation of an outdoor FOG interceptor is not required as provided by Section 118-86.08(B)(1)(a), then the Director may instead authorize the installation of an Alternative FOG Pretreatment Technology ("AFPT") approved by the Director as provided by this Section.

The design, type, construction, capacity, installation, operation, and maintenance requirements for an AFPT for a user's proposed or existing discharge shall be as determined by the Director based on nature of the discharge and the unique circumstances applicable to the premises in question.

- a. Indoor Grease Traps. If the AFPT approved by the Director is an indoor grease trap, the following requirements shall apply:
 - (i) Indoor grease traps shall be installed in all waste lines from sinks, drains, and other fixtures or equipment where grease may be

discharged to the POTW; provided that no food waste disposal unit, dishwasher, wastewater or other liquid in excess of 140 degrees Fahrenheit (60 degrees Centigrade) shall be discharged into an indoor grease trap. Further, no acidic or caustic cleaners shall be discharged into an indoor grease trap.

- (ii) Traps shall never be operated without the flow restrictor supplied by the unit's manufacturer.
- (iii) Sizing and installation of the indoor grease traps shall be subject to the POTW's prior review and approval.
- (iv) Traps shall be inspected and cleaned at least once per week, or more often if dictated by site-specific conditions, as needed to be maintained in fully functional and efficient operation, or as otherwise specifically required by the Director.
- (v) FSEs with indoor grease traps shall employ kitchen Best Management Practices (BMPs) for pre-cleaning of plates, pots, pans, and similar methods to minimize grease loadings to the drainage system. Kitchen BMPs for FSEs shall include, without limitation, dry wiping of pots and pans prior to washing, use of absorbents on grease spills prior to mopping, posting of "No Grease" signage on all sinks and drains not connected to an interceptor or trap, training of personnel on BMPs, and other practices as determined appropriate by the Director.

- b. Other AFPT. If the proposed AFPT is a technology other than indoor grease traps, the FSE shall submit design plans, installation details, and operation and maintenance procedures to the Director for prior review and approval.

C. Sand and FOG Interceptors and Traps.

Notwithstanding any provision of Sections 118-86.08 (A), (B), and (C), above, sand and FOG interceptors and/or traps may be required by the Director in any premises where the Director has determined that there is a reasonable potential for sand, fats, oil, grease, flammable wastes, or other harmful ingredients to enter the premise's discharges. The Director may require the premises to install an interceptor or trap of a type and size as

determined appropriate by the Director. Interceptors and traps shall be required for all premises engaged in the washing of motor vehicles.

D. Failure to comply.

1. The Director and/or the City shall have the right to enter and inspect any premises where an interceptor, AFPT, or trap is required to be installed for purposes of determining compliance with the requirements of this Section and as otherwise provided by Section 118-87.01 of this Article.
2. If a user fails to provide or maintain a required interceptor/AFPT, the Director may do so (or cause the same to be done) and charge all of the costs to the user.
3. The failure of any premises where an interceptor/AFPT is required to comply with this Section may subject the violator to enforcement action and the remedies that are available by law and the terms of this Article, including, but not limited to, termination of the discharges from the premises to the POTW.

E. Permits.

The Director may issue and/or require user discharge permits for any user discharging FOG or sand to the POTW; provided that the provisions of this Section 118-86.08 shall apply whether or not a user discharge permit is issued. The user discharge permits may include requirements that are more stringent than, or in addition to, the requirements specified by this Section, as determined appropriate by the Director.

Sec. 118-86.09. Dental Amalgam; Amalgam Separators

- A. Definitions. For purposes of this Section 118-86.09 only, the following definitions shall apply.

“Amalgam separator” means a device designed to remove dental amalgam waste particles from dental office wastewater.

“Code” means the Michigan Public Health Code, 1978 PA 368, MCL 333.1101 to 333.25211. Terms defined in the Code have the same meanings when used in this Section 118-86.09.

“Dental amalgam” means a mixture of mercury and other metals used as a dental restorative material.

“Dental amalgam waste” means waste from a dental office containing any of the following: (1) Contact amalgam waste, which means dental amalgam that has been in contact with the patient including, but not limited to, extracted teeth with dental amalgam restorations; carving scrap collected at chair-side; and dental amalgam captured by chair-side traps, vacuum pump filters, amalgam separators, or other dental amalgam capture devices. (2) Non-contact amalgam scrap, which means dental amalgam that has not been in contact with the patient including, but not limited to, excess dental amalgam mix remaining at the end of a dental procedure. (3) Empty amalgam capsules, which means individually dosed containers left over after mixing precapsulated dental amalgam. (4) Dental amalgam that may have accumulated in the plumbing system or that is found in other areas of a dental office.

“Dentist” means an individual licensed under Section 16611 of the Code who uses or removes dental amalgam or who owns or operates a dental office that generates dental amalgam waste.

“Department” means the Michigan Department of Licensing and Regulatory Affairs.

“Discharge” means the release of any dental amalgam waste into the environment. This includes any releases to land, ground or surface waters, septic systems, or wastewater treatment systems.

“Holding tank” means a closed, watertight, sealed structure designed and used to receive and store wastewater. Holding tanks are designed and constructed for ultimate disposal of collected wastewater at another site.

B. Amalgam Separator; Installation and Operation; Requirements.

1. On or before December 31, 2013, a dentist shall install, or shall have installed, an amalgam separator on each wastewater drain in his or her dental office that is used to discharge dental amalgam waste. In addition to meeting the requirements of the Code and this Section 118-86.09, a dentist who is required to install an amalgam separator shall comply with all of the following:
 - a. Install an amalgam separator that meets the requirements of Section 118-86.09(C).
 - b. Install, operate, and maintain the amalgam separator according to the manufacturer’s instructions.

- c. Ensure the installed amalgam separator is properly sized to accommodate maximum dental amalgam wastewater flow rates at the dental office. The maximum allowable flow rate through an amalgam separator at a dental office shall not exceed the maximum flow rate capacity at which the amalgam separator was tested under Section 118-86.09(C)(1)(a).
 - d. Ensure that all wastewater from the dental office containing dental amalgam waste passes through an installed and properly functioning and maintained amalgam separator before being discharged.
- 2. Section 118-86.09(B)(1) shall not apply to any of the following: oral and maxillofacial surgeons; oral and maxillofacial radiologists; oral pathologists; orthodontists; periodontists; dentists while providing services in a dental school, in a hospital, or through a local health department; and dentists who install and use a holding tank and do not discharge amalgam waste.

C. Amalgam separator; Requirements.

- 1. An amalgam separator that is installed in a dental office under Section 118-86.09(B) shall meet all of the following requirements:
 - a. Be certified as passing the International Organization for Standardization (ISO) 11143:2008 standard for evaluating amalgam separators.
 - b. Have a removal efficiency of not less than 95% as determined by the testing required under Section 118-86.09(C)(1)(a), based on the overall average of the 3 empty and the 3 simulated full test results.
 - c. Be tested and certified by any of the following: (i) SP technical research institute of Sweden; (ii) Tuv nord, Germany; (iii) NSF international; or (iv) both of the following: a testing laboratory accredited by an accreditation body that is a signatory to the international laboratory accreditation cooperation's mutual recognition arrangement and has a scope of accreditation that includes ISO 11143; and a certification body accredited by an accreditation body that is a signatory to the international accreditation forum's multilateral recognition arrangement and has a scope of accreditation that includes ISO 11143.

2. Any amalgam separator that meets the requirements of Section 118-86.09(C)(1) shall qualify as an amalgam separator approved by the Michigan Board of Dentistry.

D. Collection, disposal, and recycling of dental amalgam waste; requirements.

1. A dentist shall comply with all of the following:
 - a. Use amalgam only in a precapsulated form.
 - b. Salvage, store, and recycle non-contact and contact dental amalgam materials, including empty amalgam capsules. As used in this Section 118-86.09(D) and Section 118-86.09(E), "recycle" or "recycling" means sending mercury or dental amalgam waste to either the contracted separator company or a facility in the United States that will reclaim or distill the mercury for reuse. "Recycle" or "recycling" shall not include any of the following: (i) the on-site processing of mercury or dental amalgam waste; (ii) the sale, donation, or exchange of mercury or dental amalgam waste through internet lists; or (iii) the sale or donation of mercury or dental amalgam waste to any individual or company for any other reuse purpose.
 - c. Collect and recycle extracted teeth or portions of teeth that contain dental amalgam materials.
 - d. Store all dental amalgam waste in enclosed and structurally sound containers until a sufficient amount has been collected for shipment to a reclamation facility or recycler or at a minimum, recycled annually.
 - e. Label all containers holding dental amalgam waste. The label shall include, at a minimum, the title "dental amalgam waste for recycling" and the date the waste was initially placed in the container.
 - f. Use chair-side traps to retain amalgam and recycle the content.
 - g. Recycle all amalgam materials collected in amalgam separators, vacuum pump filters, chair-side traps or other waste water processing devices.

- h. Ensure that the separators operate properly and do not become full and bypass. This may include inspecting the separators annually, halfway through the operating life, or as required by the manufacturer.
 - i. Follow the steps for the cleanup of mercury spills at schools and businesses as recommended by the Department at www.michigan.gov/mercury (or at such other location that such information may hereafter be provided by the Department).
 - 2. A dentist shall not do any of the following:
 - a. Store bulk elemental mercury that is not in capsule form.
 - b. Put dental amalgam waste down a toilet or drain.
 - c. Put dental amalgam waste or empty amalgam capsules into trash containers, or biohazard or infectious waste bags.
 - d. Disinfect teeth or any item containing dental amalgam by autoclaving or using heat.
 - e. Use cleaners containing bleach or chlorine to flush drains or wastewater lines.
 - 3. A dentist shall train and have written procedures for training dental office staff who manage or dispose of dental amalgam waste to ensure compliance with this rule.
 - 4. This Section 118-86.09(D) shall not apply to a dentist listed in 118-86.09(B)(2). A dentist who installs and uses a holding tank and does not discharge amalgam waste shall comply with the requirements of Sections 118-86.09(D)(1), (2), and (3), as applicable.
- E. Record keeping.
 - 1. A dentist who is subject to the provisions of Section 118-86.09(B)(1) shall maintain records at his or her dental office that include all of the following:

- a. Type of amalgam separator installed, including the manufacturer and model.
 - b. Date the amalgam separator became operational.
 - c. Documentation verifying that the amalgam separator meets the requirements of Section 118-86.09(C).
 - d. Documentation of the manufacturer's instructions for the operation and maintenance of the amalgam separator.
 - e. Service records for each amalgam separator in use at the dental office that includes all of the following: (i) dates of maintenance; (ii) dates separator contents were recycled; and (iii) name of the staff or contractor performing the service.
 - f. Documentation verifying that the dentist disposed of and recycled any dental amalgam waste that was generated from the individual's dental office consistent with the requirements of Section 118-86.09(D). The documentation shall include all of the following: (i) name and address of the collection service or recycler; (ii) amount by weight of dental amalgam waste that was collected and the date it was collected or shipped from the dental office for recycling; (iii) name and address of the facility where the dental amalgam waste will be recycled; and (iv) shipping or manifest papers documenting transfer of the dental amalgam waste to the recycler.
2. The records required under Section 118-86.09(E)(1) shall be provided upon request to an authorized state official, local public health department staff, or representative of the CRWRRFDD, including, but not limited to, the Director.
 3. All records required under Section 118-86.09(E)(1) shall be retained for a minimum of three (3) years.
- F. Verification. Upon the request of the Director, a dentist who is subject to the provisions of 118-86.09(B)(1) shall verify in writing that he or she is in compliance with this Section 118-86.09 and shall provide the amalgam separator make and year that each separator was installed.

- G. Compliance and enforcement. Failure to comply with the requirements of this Section 118-86.09 is a violation of this Article and may result in sanctions as provided by this Article, or as otherwise provided for by applicable local, state, and federal laws and regulations.
- H. Permits. The Director may issue and/or require user discharge permits for any dentist who uses or removes dental amalgam or who owns or operates a dental office that generates dental amalgam waste; provided that the provisions of this Section 118-86.09 shall apply whether or not a user discharge permit is issued. The user discharge permits may include any conditions and requirements that are consistent with the provisions of this Section 118-86.09 and as provided by applicable state or federal laws and regulations, as determined appropriate by the Director.

Sec. 118-86.10. Additional Pretreatment Measures

The POTW may require users to take additional pretreatment measures, as determined necessary by the POTW, including, but not limited to, the following:

- A. Whenever deemed necessary, the POTW 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 waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Article.
- B. The POTW may require any person discharging into the POTW to install and continually maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow, subject to approval by the POTW.
- C. Users with the reasonable potential to discharge explosive or flammable substances may be required to install and maintain an approved explosion hazard meter, combustible gas detection meter, or similar device, as determined appropriate by the Director.

DIVISION 17. ENFORCEMENT

Sec. 118-87.01. POTW Inspection, Surveillance and Monitoring Authority; Right of Entry

- A. In general. The POTW is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by users or any other persons, compliance or noncompliance with applicable pretreatment standards and requirements, with this Article, and with other applicable laws and regulations. This authority includes, without limitation, the authority:
- (1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.
 - (2) To determine compliance with the terms, conditions and requirements of this Article or of any permit, order, notice or agreement issued or entered into under this Article.
 - (3) To support enforcement actions taken by the Director against non-compliant users.
 - (4) To determine if users have corrected problems identified in previous inspections.
 - (5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.
 - (6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.
 - (7) To evaluate the need for revised local limits.
 - (8) To maintain current data on each user.
 - (9) To assess the adequacy of each user's self-monitoring program and User Permit.
 - (10) To provide a basis for establishing sampling and monitoring requirements for users.

- (11) To evaluate the adequacy of each user's operation and maintenance activities on its pretreatment system.
 - (12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.
 - (13) To gather information for User Permit development.
 - (14) To evaluate compliance with existing enforcement actions.
 - (15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.
 - (16) To determine compliance with requirements regarding implementation of best management practices; accidental discharge controls and protections; spill prevention or containment measures; and pollution prevention, minimization or reduction measures.
- B. Right of entry. The Director and other authorized representatives of the CRWRRFDD and/or the County Agency or the City bearing proper credentials and identification are authorized to enter a User's premises (and any other person's premises, as determined necessary by the Director) to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this Article, and in that regard shall have, without limitation, the following minimum authority:
- (1) To enter into any premises of any person in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this Article, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and inspecting and making copies of required records. This shall include the right to take photographs.
 - (2) To set up and maintain on the person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the person to do so, at the person's sole expense.
 - (3) To randomly sample and analyze the discharge from any person or premises and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements. The POTW shall

inspect and sample the discharge from each Significant Industrial User at least once a year.

- (4) To inspect any production, manufacturing, fabrication, or storage area where pollutants, subject to regulation under this Article, could originate, be stored, or be discharged to the POTW.
- (5) To enter all private properties through which the POTW, the City, or other governmental agency holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW or wastewater transmission facilities lying within the easement.

POTW representatives entering a person's premises for purposes authorized by this Article shall comply with the person's plant safety requirements regarding such matters as entry into confined spaces, use of safety glasses, and hearing protection requirements, as requested by the person. Entry shall be commenced and completed as expeditiously as practicable, consistent with the purposes for which the entry was made.

- C. Access without delay required. Persons shall allow the POTW ready access at all times to all parts of the person's facility or premises where wastewater governed by this Article is created, handled, conveyed, treated or discharged, or where any production, manufacturing, fabrication, or storage area where pollutants regulated under this Article could originate, be stored, or be discharged to the POTW, or where wastewater records are kept, for the purposes of inspection, sampling, records examination, or in the performance of any of the POTW's duties. If a person has security measures in force that would require proper identification and clearance before entry into the premises by the Director, the person shall make necessary arrangements in advance with its security guards so that upon presentation of suitable identification, authorized representatives of the POTW (or authorized state or federal personnel) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Upon arrival at a person's premises, POTW representatives shall inform the person or the person's employees that inspections, sampling, compliance monitoring, metering or other POTW procedures are to be performed and that the person has the right to accompany the POTW employee/representative during the performance of the person's duties.
- D. Refusal to allow entry. If a person refuses to permit access (or unreasonably delays access) to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized

inspection, surveillance and monitoring activities as provided by this Article, the Director may order the termination of the discharge of wastewater to the POTW; order the person to permit access within a time certain; issue the person a notice of violation of this Section; or take other appropriate action as provided by this Article and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant by a court of competent jurisdiction). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this Section shall constitute a violation of this Article.

Sec. 118-87.02. Notice of Violation

- A. Any person found to be violating a provision of this Article may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by Section 118-87.04 of this Article.
- B. Unless otherwise specified by the NOV, the following provisions shall apply: Within at least thirty (30) days of the date of the NOV, the person shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the Notice of Violation.
- C. Nothing in this Section shall limit the authority of the Director or the City to take any action, including emergency actions or any other enforcement action or the imposition of any fines, penalties and other sanctions and remedies as provided by this Article, without first issuing a Notice of Violation, or otherwise require the Director or the City to first issue a Notice of Violation before initiating a civil or criminal action against a person for violating this Article. Further, receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected user of any and all liability associated with any violation.
- D. Failure to comply with any term, condition, or requirement of a Notice of Violation shall constitute a separate violation of this Article.

Sec. 118-87.03. Orders and Supplemental Enforcement Tools

The Director may issue an order to any person as determined by the Director to be appropriate under the circumstances, as provided by this Section. Multiple orders may be issued simultaneously or in combination as a single order with respect to a single person.

- A. Service. An order shall be served upon a person and shall contain the information as provided by Section 118-87.04 of this Article. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the POTW, may be oral and may be served by telephone, to be followed within five (5) days by written confirmation of the oral order by the Director.
- B. Types of Orders. The Director may issue the following types of orders:
 - (1) Order to Immediately Cease and Desist Discharge. The Director may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Article. The order shall have immediate effect if the Director determines that the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the POTW to violate any term or condition of its NPDES permit. The Director shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Article.
 - (2) Order to Cease Discharge Within a Time Certain. The Director may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Article by a certain time and date. The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the Director, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a User Permit.
 - (3) Order to Effect Pretreatment. The Director may issue an order to a user requiring the user to pretreat its discharge in accordance with this Article. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the

discharge complies with the requirements of the order and this Article. The plan shall be submitted to the Director within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the Director. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the Director:

- (a) Retain a qualified engineer and/or consultant.
 - (b) Obtain any engineering or scientific investigation or surveys deemed necessary.
 - (c) Prepare and submit a preliminary plan to achieve pretreatment.
 - (d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.
 - (e) Establish a time to let any contract necessary for any construction.
 - (f) Establish completion times for any construction necessary.
 - (g) Establish a time limit to complete full pretreatment pursuant to the final order.
 - (h) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phases or unit.
- (4) Order to Affirmatively Respond. The Director may issue an order requiring a person to perform any action required under this Article, including, without limitation, requiring a person to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a

discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

- (5) Order to Terminate Sewer Services. The Director may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:
- (a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.
 - (b) Failure of a user to notify the POTW of any discharge as described in Section 118-87.03(B)(5)(a) of which the user was aware or reasonably should have been aware.
 - (c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the Director.
 - (d) A knowing, willful violation of any term, condition or requirement of an order or User Permit, or any provision of this Article.
 - (e) A negligent violation of any major term, condition or requirement of an order or User Permit. For purposes of this Section, a "major" term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment, the POTW, or cause the POTW to violate its NPDES permit.

If the POTW determines that physical blockage is necessary, the POTW shall make a reasonable attempt to deliver to the person who appears to be in control of the user's facility a written notice describing the reason for the physical blockage order. After delivery of the notice (or after a reasonable attempt to deliver the notice, even if delivery was unsuccessful), the POTW may immediately install the physical blockage. No person shall remove or tamper with a physical blockage installed by the Director without prior written permission from the Director.

- (6) Order to Show Cause. The Director may issue an order requiring a person to appear and explain any noncompliance with the requirements of this Article or any permit, order, decision or determination promulgated, issued or made under this Article, and to show cause why proposed or more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within ten (10) days after the order to show cause is issued, as follows:
 - (a) The Wastewater Board of Appeals shall conduct the hearing and take evidence. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.
 - (b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.
 - (c) After reviewing the evidence taken at the hearing, the Wastewater Board of Appeals shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Article.
- C. Immediate Response To Order By User May Be Required. Any user issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this Article, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the Director within fifteen (15) days of the occurrence.

- D. Noncompliance Due to Factors Beyond User's Control. If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset as provided by Section 118-81.01(A), the Director may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- E. Amendment, Suspension and Revocation of Orders. An order shall be subject to amendment, suspension or revocation as determined appropriate by the Director. Notice of the amendment, suspension or revocation shall be served upon the person in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Article.
- F. Consent Orders and Agreements. The Director may enter into a consent order or agreement with a person to resolve disputed claims and address identified and potential deficiencies in the person's compliance status. The order or agreement shall be in the form of a written agreement with the person and may contain appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.
- G. POTW Authority to Require Financial Assurances. The Director may require any user to post a performance bond (or other form of surety acceptable to the Director) sufficient to cover expenses (direct and/or indirect) that might reasonably be incurred by the Director as a result of the user's discharges to the POTW (including, but not limited to, the costs to restore or repair any damage to the POTW) or sufficient to achieve consistent compliance with applicable laws and regulations, as determined necessary by the Director. Further, any person that has in the prior two (2) years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These financial assurance requirements may also be made conditions of a User Permit.
- H. Failure to comply with any term, condition, or requirement of an Order shall constitute a separate violation of this Article.

Sec. 118-87.04. Service of Notices of Violations, Orders and Notices of Assessments

Except as otherwise expressly provided by this Article, all orders, notices of violations, and notices of assessments shall be served upon persons and shall contain the information as provided by this Section.

- A. Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by the Director's records. The person served shall sign and date the order or notice and shall return the signed original copy to the Director; provided, that the failure to do so shall not affect in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the POTW against the person under authority of this Article. Receipt, or non-receipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the Director against the affected person.
- B. Contents. All orders and notices shall contain at least the following information, to the extent known by the POTW and as determined by the POTW to be applicable to the situation:
 - (1) The name and address of the violator;
 - (2) The location and time that the violation occurred or was observed, and the duration of the violation;
 - (3) The nature of the violation, including the provisions of this Article or of any permit, order, decision, determination or agreement violated;
 - (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
 - (5) The amount of the fine, penalty, cost, or charge assessed or due, if any;
 - (6) The manner in which, and time and date by which, any fine, penalty, cost, or charge must be paid, including any penalty or charge for late payment;

- (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
 - (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
 - (9) The date and time the order or notice was issued.
- C. Request for Additional Information. A person served may request additional information from the Director regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Sec. 118-87.05. Publication of Users in Significant Noncompliance

The POTW shall publish once per year in the largest newspaper circulated in the City, a list of Nondomestic Users that, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards or requirements. For the purposes of this Section, a user shall be considered to be in significant noncompliance if its violations meet one or more of the following criteria:

- A. Chronic violation of discharge limits, defined as results of analyses in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, for the same pollutant parameter;
- B. Technical review criteria (TRC) violations, defined as results of analyses in which 33% or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of a numeric pretreatment standard or requirement, including instantaneous limits, times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);
- C. Any other violation of a pretreatment effluent limit (instantaneous minimum, instantaneous maximum, daily maximum, or long-term average, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Department personnel or the general public);

- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent the discharge;
- E. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide any required reports within thirty (30) days after the due date;
- G. Failure to accurately report noncompliance; or
- H. Any other violation or group of violations, which may include a violation of Best Management Practices, that the Director determines will adversely affect the POTW or the operation or implementation of the POTW's pretreatment program.

Sec. 118-87.06. Municipal Civil Infractions

- A. Violation; Municipal Civil Infraction. Except as provided by Section 118-87.07, and notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this Article (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Article) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.
- B. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Article (i) committed by a person within any one-year period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Article shall be as follows:
 - (1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs and other sanctions.
 - (2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs and other sanctions.

- C. Amount of Fines. Subject to the minimum fine amounts specified in Sections 118-87.06(A) and 118-87.06(B), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Article: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.
- D. Authorized Local Official. Notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this Article (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the Director, the WRRF Superintendent, any sworn law enforcement officer, and any other persons so designated by the Director or the City.
- E. In addition to ordering the defendant to pay a civil fine, costs, and damages and expenses, the City and/or the Director may ask the District Court to issue and enforce any judgment, writ, or order, including injunctive or other equitable relief, necessary to enforce this Article, as authorized by state law.
- F. Other Requirements and Procedures. Except as otherwise provided by this Section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court-ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Article X of Chapter 86 the Pontiac Municipal Code and Act No. 236 of the Public Acts of 1961, as amended.
- G. This Section shall not affect the sections provided for by any state or local law for a violator's failure to comply with a judgment of the 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.

Sec. 118-87.07. Criminal Penalties; Imprisonment

Any person who (1) at the time of a violation knew or should have known that a pollutant or substance was discharged contrary to any provision of this Article, or contrary to any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Article; or (2) intentionally makes a false statement, representation, or certification in an application for, or form pertaining to a permit, or in a notice, report, or record required by this Article, or in any other correspondence or communication, written or oral, with the POTW regarding matters regulated by this Article; or (3) intentionally falsifies, tampers with, or renders inaccurate any sampling or monitoring device or record required to be maintained by this Article; or (4) commits any other act that is punishable under state law by imprisonment for more than ninety-three (93) days; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to ninety-three (93) days, or both in the discretion of the court.

Sec. 118-87.08. Continuing Violation

Each act of violation, and each day or portion of a day that a violation of this Article (or of any permit, order, notice or agreement issued or entered into under this Article) exists, occurs, or continues constitutes a separate and distinct violation subject to the fines, penalties and other sanctions and remedies as provided by this Article.

Sec. 118-87.09. Number of Violations

The number of violations resulting from a user's noncompliance with applicable discharge prohibitions or effluent limitations shall be determined as follows:

- A. Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.
- B. Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each day on which the violation occurs or continues.

- C. Each violation of an instantaneous minimum or instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each such occurrence, and there may be multiple violations for each day on which such a violation occurs or continues.
- D. Each violation of a monthly average limit (or of some other average limit period) for a single pollutant or sampling parameter shall constitute a separate violation for each day of the month (or other stated period) during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with thirty-one (31) days, a violation of the monthly average limit for that month constitutes thirty-one (31) violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)
- E. Except with regard to violations of average limits as provided by Section 118-87.09(D), a violation will be deemed to have continued to occur each day beginning with the first day the violation occurred to the day the user is able to demonstrate through appropriate sampling results that the violation is no longer occurring.
- F. If for any period a user has violated both a daily maximum limit and an average limit for a particular pollutant parameter, then the total number of violations is the sum of the days on which the daily maximum limit was violated plus the number of days in the averaging period.
- G. If a User Permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this Section.
- H. If a user is discharging a wastestream that is required to be monitored and analyzed under continuous monitoring procedures, then all of the following shall apply:
 - (1) If at any time during a daily 24-hour period the continuous monitoring shows that the monitored parameter exceeded the instantaneous minimum, instantaneous maximum, or daily maximum limit for that parameter, then a violation has occurred.
 - (2) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum or instantaneous maximum, during that period, then each such exceedance shall be considered a separate violation.

- (3) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum, instantaneous maximum, or daily limit into the next daily 24-hour period (i.e., the exceedance occurs both before and after midnight), then the exceedance will be considered a separate violation on both days.

- I. One (1) violation occurs on: each day that a report is late; and each day after an action required to be completed is not completed.

Sec. 118-87.10. Nuisance

A violation of this Article, or of any permit, order, notice or agreement issued or entered into under this Article, is deemed to be a public nuisance and shall be corrected or abated as directed by the Director and/or the City. In addition to any other legal or equitable remedies available under the law, any person creating a public nuisance shall be subject to the provisions of state law, this Article, or other ordinance of the City governing such nuisances, including reimbursing the Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, for any costs incurred in removing, abating, or remedying said nuisance, as applicable.

Sec. 118-87.11. Reimbursement

- A. Any person who discharges to the POTW (including, but not limited to, any person who causes or creates a discharge that violates any provision of this Article, produces a deposit or obstruction, or otherwise damages, injures, or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW, whether any such act is intentional or unintentional) shall be liable to and shall fully reimburse the Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, for all expenses, costs, losses or damages (direct or indirect) payable or incurred by the Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, as a result of or associated with any such discharge, deposit, obstruction, damage, injury, impairment, violation, exceedence, noncompliance, or act. The costs that must be reimbursed as provided by this Section shall include, but shall not be limited to, all of the following:
 - (1) All costs incurred in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, or noncompliance.

- (2) All costs of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, or noncompliance.
- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, or any representative thereof, by any governmental agency or third party as a result of a violation of the CRWRRFDD's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, or noncompliance.
- (4) The full value of any staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including legal counsel of the Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, and any special legal counsel), court costs, court reporter's fees, and other litigation costs, associated with reviewing, responding to, investigating, verifying, and/or prosecuting any discharge, violation, or noncompliance or otherwise incurred by the Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, in administering and enforcing the requirements of this Article.

The Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, are authorized to correct any violation of this Article or damage or impairment caused to the POTW and to bill the person responsible for the damage for the full costs of repair (including, but not limited to, labor, equipment, materials, administrative expense, overhead, interest on borrowed funds, engineering, legal or other professional fees, and charges assessed by other utilities or departments).

The costs reimbursable under this Section shall be in addition to fees, amounts or other costs and expenses required to be paid by users under other Sections of this Article.

B. In determining the amounts to be reimbursed, factors including, but not limited to, the following may be considered:

- (1) The volume of the discharge.
- (2) The length of time the discharge occurred.
- (3) The composition of the discharge.

- (4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.
 - (5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.
 - (6) The direct and indirect costs incurred by the POTW, or imposed upon the POTW to treat the discharges, including sludge handling and disposal costs.
 - (7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the POTW, including the POTW's costs of defense of actions, or suits brought or threatened against the POTW by governmental agencies or third parties.
 - (8) Such other factors, including the amount of any attorney's fees; engineering, consultant, and expert fees; expenses, costs, sampling and analytical fees; repairs; as deemed appropriate under the circumstances.
- C. Costs to be reimbursed to the Director, CRWRRFDD, the County, the County Agency, and/or the City, as applicable, as provided by this Section may be assessed to the user as provided by Section 118-87.04 of this Article, or as otherwise determined appropriate by the Director in conjunction with an enforcement action.
- D. The failure by any person to pay any amounts required to be reimbursed as provided by this Section shall constitute an additional violation of this Article.

Sec. 118-87.12. Review or Approval by Director or City

In no case shall the review and/or approval by Director or the City of a user's plans, specifications, or operating procedures entitle a user to relief from enforcement actions for failure to achieve compliance with the applicable pretreatment standards and requirements.

Sec. 118-87.13. Severance or Suspension of Sewer and/or Water Service

If a user violates or continues to violate any provision of this Article (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the Director or the Director under this Article), or if the Director or the Director determines that the user's actual or proposed discharge may present an imminent or substantial endangerment to

the health or welfare of persons or the environment, the Director may immediately, and without notice, sever or suspend sewer and/or water service provided to the user. If severed or suspended, the sewer and/or water service shall recommence only after the user has satisfactorily demonstrated to the Director the user's ability to comply with all applicable provisions of this Article, and only at the user's sole expense.

Sec. 118-87.14. Judicial Relief

The City and/or the Director (in conjunction with the City's legal counsel) may institute legal proceedings in a court of competent jurisdiction to seek all appropriate relief for violations of this Article or of any permit, order, notice or agreement issued or entered into under this Article. The action may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief, at law or equity, that a court may order. The City or the Director may also seek collection of surcharges, fines, penalties and any other amounts due to City or the POTW, respectively, that a person has not paid.

Sec. 118-87.15. Cumulative Remedies

The imposition of a single penalty, fine, notice, order, damage, or surcharge upon any person for a violation of this Article, or of any permit, order, notice or agreement issued or entered into under this Article, shall not preclude (or be a prerequisite for) the imposition by the Director or a court of competent jurisdiction of a combination of any or all of those sanctions and remedies or additional sanctions and remedies with respect to the same violation, consistent with applicable limitations on penalty amounts under state or federal laws or regulations. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon and need not be held in abeyance during any civil, judicial, or administrative proceeding, conference, or hearing regarding the person.

DIVISION 18. ADMINISTRATIVE REVIEW AND APPEALS

Sec. 118-88.01. Procedures Available

Any person aggrieved by a Notice of Violation, Order, final decision, final determination, or other final action taken by the WRRF Superintendent under this Article may request an informal review and reconsideration of the action by the WRRF Superintendent as provided by this Division. Following the WRRF Superintendent's informal review and reconsideration, the person aggrieved may appeal the WRRF Superintendent's final decision to the Wastewater Board of Appeals ("WBA") as provided by this Division. The person requesting the appeal shall pay an appeal fee in the amount determined from time to time by the Director. The appeal fee

shall be paid at the time that the request for informal review/reconsideration or appeal is requested. If a request for informal review and reconsideration by the WRRF Superintendent or an appeal to the WBA is not properly and timely requested as provided by this Division, including payment in full of the appeal fee and submission of all required supporting documents and information as provided by this Division, the right to request a review and/appeal shall be deemed waived and the action shall be deemed final.

Sec. 118-88.02. Informal Review and Reconsideration by the WRRF Superintendent

A request for a review and reconsideration by the WRRF Superintendent of an action taken by the WRRF Superintendent shall be made in writing within 10 calendar days from the date of the WRRF Superintendent's action in question. The request shall state the reasons for the review and shall include all supporting documents and dates. A hearing on the request shall be scheduled at the earliest practicable date as determined by the WRRF Superintendent, as applicable. The hearing shall be conducted by the WRRF Superintendent on an informal basis at the WRRF or at another location designated by the WRRF Superintendent. Following the informal hearing, the WRRF Superintendent may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, determination, or decision (these actions by the WRRF Superintendent are hereinafter collectively referred to as the Superintendent's "final decision") that in the WRRF Superintendent's opinion ought to be made in the case under consideration. The aggrieved person shall be notified of the WRRF Superintendent's final decision within 30 calendar days of the hearing. The WRRF Superintendent may request additional information and extend the time for the final decision by up to an additional 30 calendar days following the submission of all of the additional requested information. The WRRF Superintendent's final decision may be appealed to the WBA as provided by Section 118-88.03. All supporting documentation and information shall be provided solely by the person requesting the appeal (the "appellant"), at the appellant's sole cost.

Sec. 118-88.03. Appeal to Wastewater Board of Appeals

- A. The WBA shall be comprised of three members appointed from time to time by the Director. At least one of the members of the WBA shall be a Michigan licensed engineer. The Director may also be a member of the WBA. The WBA may adopt its own rules of procedure, and shall keep a record of its proceedings, showing findings of fact, the action of the WBA, and the vote of each member upon each question considered. The presence of two members of the WBA shall be necessary to constitute a quorum.
- B. The following provisions shall govern appeals of final decisions of the WRRF Superintendent made to the WBA under this Article:

- (1) A request for an informal review and reconsideration leading to a final decision of the WRRF Superintendent as provided by Section 118-88.02 shall be required before an appeal of any action of the WRRF Superintendent may be made to the WBA as provided by this Section.
- (2) An appeal from any final decision of the WRRF Superintendent shall be made to the WBA within 10 calendar days from the date of the WRRF Superintendent's final decision being appealed. The appeal may be taken by any person aggrieved by the WRRF Superintendent's final decision. The appellant shall file a written notice of appeal with the WBA. The notice of appeal shall specify in detail the grounds for the appeal and shall be accompanied by a non-refundable appeal fee in the amount set from time to time by the WBA. Failure to file a timely notice of appeal shall be deemed to be a waiver of the right to appeal.
- (3) Prior to a hearing before the WBA regarding an appeal, the WRRF Superintendent shall transmit to the WBA a written summary of all previous action taken in connection with the final decision being appealed. The WBA may, at the WBA's discretion, request the WRRF Superintendent to provide further information regarding the final decision that is the subject of the appeal and may require the appellant to submit further documents and information in support of the appeal.
- (4) The WBA shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be provided to the appellant at least 10 calendar days in advance of the hearing to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. The appellant shall submit an exhibit and witness list to the WBA at least 5 calendar days before the hearing or as otherwise directed by the WBA.
- (5) The WBA shall conduct the hearing. At the hearing, attorneys may represent the WBA and the appellant and they may file briefs, present evidence, and call, examine and cross-examine witnesses (provided that no party to the hearing shall be required to be represented by an attorney, and may represent himself/herself). Any testimony taken at the hearing shall be under oath and recorded unless the oath or recording are waived by agreement of the WBA and appellant. A copy of the transcript of the hearing (and/or a recording, if made) shall be made available at cost to any person upon payment of applicable charges for the transcription or recording.

- (6) The WBA shall admit all testimony having reasonable probative value and shall exclude irrelevant or unduly repetitious testimony, as determined by the WBA. The WBA shall not be bound by common law or statutory rules of evidence. The appellant shall have the burden of proof and persuasion for showing that the decision being appealed was clearly erroneous.
- (7) Within 30 days after the completion of the hearing, the WBA shall mail or otherwise deliver to the appellant a written decision granting, denying or modifying the final decision of the WRRF Superintendent that was the subject of the appeal. The decision of the WBA on the matter shall be final, and shall be a final determination for purposes of judicial review.

Sec. 118-88.04. Payment of Charges, Penalties, Fines, and Other Costs or Fees

All service charges, penalties, fines, fees, surcharges, costs, expenses, or other outstanding amounts during any review or appeal process shall be due and payable to the CRWRRF. Further, if the decision that was reviewed and/or appealed is upheld, the person that requested the review and/or appeal shall pay all of the costs incurred by the POTW in conducting the appeal, including, but not limited to, any applicable sampling and analytical costs, legal and engineering consultant costs, and costs of transcription and recording. If the decision that was reviewed and/or appealed is only partially upheld or reversed, upon resolution of the review and/or appeal, any amounts due and payable to the POTW shall be equitably adjusted accordingly, provided that any refunds of any amounts already paid to the POTW by the appellant shall be retroactive to the previous 4 monthly billings only. In no case shall any portion of the appeal fee be refunded. The POTW may terminate wastewater treatment services if a corrective course of action is not taken or if service charges, penalties, fines, fees, surcharges, costs, or expenses are not paid by a user.

Sec. 118-88.05. Finality of Action

If a review or appeal is not demanded as provided by this Section within the periods specified by this Section, the action in question shall be deemed final. If an appeal is properly demanded, the action appealed shall be suspended until a final determination has been made by the WRRF Superintendent or WBA, as applicable, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this Article (such as for permit appeals, Section 118-77.14).

Sec. 118-88.06. Appeals from Determination of WBA

Appeals from a final determination of the WBA may be made to a court of competent jurisdiction as provided by law. All findings of fact made by the WBA, if supported by the evidence, shall be deemed conclusive.

DIVISION 19. PROTECTION FROM DAMAGE

Sec. 118-89.01. Protection from Damage

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct; shall, upon conviction, be guilty of a misdemeanor punishable by a fine of \$500.00 per violation, per day, or imprisonment for up to ninety-three (93) days, or both in the discretion of the court; and shall be subject to other sanctions and remedies as provided by this Article, including, but not limited to, reimbursement of the POTW as provided by Section 118-87.11 of this Article.

DIVISION 20. MUNICIPAL LIABILITY

Sec. 118-90.01. Municipal Liability

Neither the County, the County Agency, the CRWRRFDD, the Director, or the City (including, but not limited to, their respective staff, employees, and officials) shall be responsible for interruptions of service due to natural calamities, equipment failures, or the actions of users. It shall be the responsibility of the users that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

DIVISION 21. USE OF PUBLIC SEWERS CONDITIONAL

Sec. 118-91.01. Use of Public Sewers Conditional

The use of the public sewer is conditional upon the user complying with all applicable provisions of this Article, the rules and regulations promulgated pursuant to this Article, User Permits and all other applicable Federal, State and local laws, rules, regulations, standards and requirements. Use of the public sewer is also conditional upon the payment of all applicable charges, surcharges, rates, fees and penalties.

DIVISION 22. INDUSTRIAL PRETREATMENT PROGRAM FEES

Sec. 118-92.01. Purpose

It is a purpose of this Article to provide for the recovery from users of the POTW of all costs incurred by the POTW for the administration and implementation by the POTW of the industrial pretreatment program (IPP) established by this Article. The IPP fees provided for by this Section are separate from, and in addition to, amounts chargeable to users for sewage disposal services by the POTW, and costs required to be reimbursed to the POTW under any other provisions of this Article or other laws and regulations.

Sec. 118-92.02. IPP Fees

IPP fees payable by users shall be established by the Director, and shall be subject to amendment or revision by the Director from time to time. Such fees shall be sufficient to meet the costs to administer and implement the CRWRRFDD's IPP and any associated regulations and written procedures as provided by this Article and authorized by applicable law. IPP fees may include, but shall not be limited to, any of the following:

- A. Fees to reimburse the POTW for the costs of development and operation of an Industrial Pretreatment Program, and fees to reimburse the POTW for monitoring, inspections and surveillance procedures, including expenses incurred for analysis of samples.
- B. Fees for reviewing discharge reports, and for related enforcement procedures.
- C. Fees associated with permit applications, permit renewals, and permit transfers.
- D. Fees for reviewing accidental discharge procedures and construction.
- E. Fees for appeals filed under this Article.
- F. Such other charges or fees that the Director deems necessary or required to fully perform the provisions of applicable Federal and State laws or regulations, this Article, and other rules, regulations, or requirements established by the Director.

Sec. 118-92.03. IPP Fee Amounts

- A. IPP fees shall be paid by users to the POTW in amounts determined necessary by the Director from time to time to reimburse the POTW for all costs and expenses incurred by

the POTW in administering the IPP. To the extent practical, the fees shall be set in an amount to include at least the POTW's average total costs for that purpose. If determined appropriate by the Director, IPP fee amounts may be based on the quantity and quality of Nondomestic wastewater being discharged by users or classes of users. With regard to IPP activities undertaken by the POTW with regard to particular users, the fees shall be charged to the users on a time and materials basis, including, but not limited to, the full value of any POTW staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, testing fees, and actual attorney fees and defense costs, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken for each user.

- B. If the Director determines that it is necessary to evaluate the ability or capacity of the POTW to accept any current or proposed discharge by means, including, but not limited to, a headworks analysis or treatability study, all such evaluation and analysis or other required work shall be at the sole cost of the user. Such costs shall be paid in full by the user according to the timetable and subject to any terms or conditions established by the Director, and shall be paid whether or not the discharge (or any part thereof) is ultimately approved. The Director may require the user to post a deposit or other form of surety, as determined sufficient and appropriate by the Director, to ensure payment by the user of all such costs.

Sec. 118-92.04. Surcharges

- A. Surcharges are intended to reimburse the POTW for all costs incurred by the POTW in handling or treating a discharge that contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits. These costs may include, but are not limited to, the actual cost of treatment including chemical, equipment, and personnel costs, including administrative and overhead costs.
- B. Any user exceeding applicable surcharge limitations shall be subject to the imposition of one or more surcharges as provided by this Section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur in handling or treating the discharge, or which may be imposed upon the POTW, where the exceedence of applicable limits causes or contributes to those costs or expenses. Surcharges shall be in addition to any fine or penalty of exceeding other applicable discharge standards or requirements.
- C. The Director may establish surcharge rates for BOD, COD, Ammonia-N, TKN, phosphorus, and TSS and any other pollutant parameter for which a surcharge is

determined appropriate by the Director. These rates shall be reviewed, calculated and determined from time to time, as determined appropriate by the Director.

- D. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this Article, subject to applicable fines, penalties and other enforcement actions provided by this Article. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Article.
- E. The applicable surcharge shall be assessed for all discharges during the entire period beginning with the first sample results that exceed the surcharge threshold limit and continuing until sample results are obtained which do not exceed the surcharge threshold limit, as determined by the Director. The cost and responsibility to demonstrate that a discharge no longer exceeds the surcharge threshold shall be borne solely by the User.

Sec. 118-92.05. Billing and Collection of IPP Fees

User Permit application fees shall be due and payable to the POTW upon submission of permit applications. Except as otherwise required by the Director, all other IPP fees shall be due within 30 days of the date of the activity or service for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the user's sewage disposal service charges or billed separately. IPP fees provided for by this Section, including, but not limited to, surcharges, shall be billed, collected and enforced pursuant to the procedures for sewer service charges, rates, and fees as provided by the Director.

DIVISION 23. SEWER SERVICE CHARGES, RATES, AND FEES

Sec. 118-93.01. Sewer Connection Charges and Fees

For each permit issued by the Director, a charge shall be made as provided in this section. A connection charge shall be made for all new buildings or premises, major additions or alterations to buildings causing increased wastewater discharge, any land use causing the discharge of wastewater into the POTW and any change in wastewater flow. The connection charge shall be determined as provided by this section.

- A. The connection charge provided for by this section shall also be made where any dwelling or building is connected to the POTW. Before the permit can be used, evidence that the connection charge has been paid shall be filed with the Director.

- B. Charges for connections to the POTW shall be computed on the basis of the number of units to be served as defined from time to time by the Director. For this purpose, a unit of measure shall be defined as that quantity of wastewater discharged from the ordinary single-family dwelling occupied by one family for residential purposes. In computing charges for nondomestic facilities (including, but not limited to, commercial and industrial facilities) and multiple residences, the number of units for which charges are to be made shall be determined based on equivalent unit factors as established from time to time by the Director.
- C. The connection charge shall be established in an amount per unit for all new construction, improvements, extensions, and/or major alterations to existing improvements.
- D. Classifications not specifically listed in this section shall be assigned values as determined by the Director based upon the Director's estimate of the quantity of wastewater to be generated by the use in question. The owners of unlisted classifications may petition for adjustment of connection charges. Such petition shall not be considered until one year of continuous water consumption records or sewage flow records, or such other data that would establish equivalent unit values, are available. At the end of the measurement period, the Director shall determine the charge based on such information. A deposit toward the sewer connection fee, as determined by the Director, will be made before a permit is issued.
- E. The Director shall devise and procure the permit forms, such permits to be consecutively numbered, and shall be handled, in the manner prescribed by law, all funds received as a result of the connection charges, which will be credited to the sewerage fund. If the records of the Director show that a sewer connection fee has been paid, then a credit for prior use will be allowed in calculating the sewer connection charge. If no payment has been made, no credit will be allowed. There shall be no return of any fees or portion of fees resulting from a reduced usage.
- F. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the CRWRRDD, the Director, and the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer. The owner shall hold the CRWRRDD, the Director, and the City harmless from any loss or damage that may in any way result from or be occasioned by such installation or connection.

Sec. 118-93.02. User Charges and Fees

- A. The purpose of this section is to provide for the recovery of costs from users of the POTW. The applicable charges or fees shall be established by the CRWRRFDD from time to time and shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the POTW, or as required or provided by law or by CRWRRFDD action. The CRWRRFDD shall adopt charges and fees which may include, but shall not be limited to, the following:
- (1) Fees for reimbursement of costs of establishing, operating, maintaining, or improving the Director's industrial waste control and pretreatment programs;
 - (2) User fees based upon volume of waste and concentration or quantity of specific pollutants in the discharge, and treatment costs including sludge handling and disposal;
 - (3) Fees for reimbursement of costs for hearings including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and
 - (4) Such other fees that the CRWRRFDD may deem necessary, to carry out the purposes and requirements of this Article, or as may be required by other applicable laws and regulations.
- B. Charges and fees for use of the POTW as established by the CRWRRFDD shall be levied and assessed upon each lot, parcel of land, building, or premises having any sewer connection to the POTW or otherwise discharging wastewater, water, or other liquids whether intentionally or unintentionally, and whether directly or indirectly into the POTW.
- C. The users of the POTW shall be divided into classes as determined from time to time by the Director. "Classes" shall consist of groups of users for which the wastewater characteristics are approximately equal and services provided are essentially the same. For example, classes of users may include Nondomestic Users (including subclasses thereof such as industrial and commercial), Domestic Users, Outside-the City contract users, and such other additional user classes as determined appropriate by the Director.
- D. Charges for wastewater treatment service shall be paid by each user connected to the POTW and shall be computed in accordance with probable demand a user places on the system and the quantity of water discharged to the POTW as measured by a water meter

for the premises, by a sewage meter installed on the premises' discharge outfalls, as estimated by the Director, or a combination of such or similar methods as determined appropriate by the Director.

- E. **Unscheduled Charges.** Any POTW user that is responsible for damage to the POTW shall be charged the full cost of repair of the damage to the POTW. The cost shall include, but is not limited to, labor, equipment, materials, administrative expense, interest on borrowed funds, engineering, legal or other professional fees, and charges to the City by other utilities or departments, and all reimbursable costs as otherwise provided by this Article.
- F. When a considerable amount of water delivered to any premises is not returned to the POTW, the Director in such case may establish a special basis upon which the sewage disposal charges to such premises will be computed, or, upon a determination by either the Director or the customer that the use of direct metering of sanitary sewage flow is necessary or is a more equitable method of determining sewage disposal charges, the Director may order the installation of wastewater meters.
- G. **Surcharges.** In addition to other applicable user charges and fees, any user discharging wastewater in excess of the surcharge threshold concentrations shall pay the applicable surcharge rates as established and provided by this Article. The Director may also establish surcharges for the treatment of pollutant parameters not covered by an existing surcharge, or pollutant parameters that are not normally treated by the POTW, or for discharges of pollutants in excess of levels normally treated by the POTW.
- H. **Metering and Monitoring Fees.** In addition to the other charges provided by this section, each user shall pay for sampling and metering required by this Article. A fee shall be charged for each set of samples collected and analyzed. Sampling periods shall not exceed a 24-hour day. If necessary to sample during more than one 24-hour day, multiple charges shall be assessed. The charges for sampling, metering, and monitoring and related services shall be at the rates established from time to time by the Director.

Sec. 118-93.03. Payments; Delinquent Fees; Lien

- A. Except as otherwise expressly provided by this Article, all charges and fees for sewer connections, permits, etc., shall be payable at the time that application is made for the approval or permit.

- B. Charges, fees, reimbursable costs, and other amounts assessed against users shall be billed monthly for all users and payment shall be due as of the date of billing.
- C. Payments shall be made at the office of the Director or such other places as the Director designates.
- D. A late payment charge of ten percent of the balance due shall be added to all delinquent payments. If the delinquent fees, penalties and charges are not paid within 30 days of the due date, an additional five percent of the total due shall be added each month until paid or entered upon a tax roll. The greater of five percent or \$20.00 will be added as a fee upon the delinquency when entered on the tax roll. After 30 days upon entrance on the tax roll, an additional one percent per month penalty shall accrue until all amounts due are paid.
- E. If the charges for services furnished to any premises are not paid within ninety (90) days after the due date thereof, all services furnished by the POTW to the premises may be discontinued. Services so discontinued shall not be restored until all sums then due and owing, including all accrued penalties, shall be paid, plus a shutoff charge and turn-on charge in an amount to be established by the Director.
- F. Except as otherwise expressly provided by applicable laws and regulations, if a charge or fee due from any person under this Article or under other rules or regulations established by the Director or under any City ordinance in connection with use of the POTW, is not paid when due, the amount due, along with any late penalties, shall be a lien against the premises served and shall be certified and spread on the next regular City tax roll. The total amount due may be collected or returned, and the lien enforced, in the same manner as municipal taxes against real estate are certified, assessed, collected, and returned.
- G. No free service shall be furnished by the system to any person or entity, public or private.

DIVISION 24. DISCHARGES TO POTW BY OTHER LOCAL UNITS

Sec. 118-94.01. Discharges By Other Local Units of Government; Sewer Use Ordinances; Interjurisdictional Agreements

- A. Any local unit of government (other than the City of Pontiac) that discharges into the POTW, or that has users or premises that discharge into the POTW, shall, as a condition to discharge to the POTW:

1. Enter into an interjurisdictional agreement with the CRWRRFDD that allows the CRWRRFDD, as the designated control authority for the POTW, to implement and enforce its industrial pretreatment program, including this Article, with regard to users throughout the POTW's service area and regardless of jurisdictional or political boundaries.
2. Adopt, and to keep continually in force and up-to-date, an ordinance that, except as specifically provided by this subsection, shall be identical to the sewer use and pretreatment regulations as provided by this Article (and as this Article is amended from time to time). The ordinance adopted by the local unit shall expressly designate, empower and authorize the CRWRRFDD to act as the agent and representative of the local unit for purposes of administering and enforcing the local unit's ordinance within the local unit. This shall include, but shall not be limited to, the power and authority of the CRWRRFDD, as deemed necessary by the CRWRRFDD, to immediately and independently investigate, enforce, and prosecute (administratively or judicially, and civilly or criminally) any violation of the local unit's ordinance or of any notice, order, permit, decision or determination promulgated, issued or made by the Director under this Article or the local unit's ordinance, and to otherwise implement the requirements of this Article and the local unit's ordinance. The only other deviations and differences permitted between this Article and the local unit's ordinance shall be those that reflect the fact that the local unit's ordinance is being adopted as an ordinance by the Local Unit, and any other deviations or differences that are approved in advance by the CRWRRFDD.
3. Comply with all applicable requirements of this Article, including, but not limited to, any notice, order, permit, decision or determination promulgated, issued or made by the Director under this Article.

Sec. 3. Severability. Sections of this Article shall be deemed severable and should any section, clause or provision of this Article be declared to be invalid, the same shall not affect the

validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

Sec. 4. Saving Clause. The amendment or repeal by this Article of any ordinance or ordinance provision shall have no effect upon prosecutions commenced prior to the effective date of this Article or prosecutions based upon actions taken by any person prior to the effective date of this Article. Those prosecutions shall be conducted under the ordinance provisions in effect prior to the effective date of this Article.

Sec. 5. Conflict. Except as otherwise expressly provided, the provisions of this Article shall control in the event of any inconsistency or conflict between this Article and any other provision of any other Ordinance of the City.

Sec. 6. Publication. This Article shall be published by publishing a summary of the Ordinance in a newspaper of general circulation in the City of Pontiac, including the designation in the publication of the location in the City where a true copy of the Ordinance can be inspected or obtained, as authorized by State law.

Sec. 7. Effective Date. This Article shall become effective upon the date of publication of the notice of its adoption as provided in Section 6, above, and as certified by the Clerk, below.

City of Pontiac

Sewer Use and Pretreatment Ordinance

Adopted this _____ day of _____, 2017, by the City Council, City of Pontiac, Michigan.

On roll call, the vote was:

Yeas:

Nays:

By: _____

Certification

I, _____, Clerk of the City of Pontiac, Michigan, do hereby certify that the foregoing is a true copy of the ordinance adopted by the City of Pontiac City Council at a regular meeting held on _____, 2017, at _____, and that it was published in _____ on _____, 2017.

_____, Clerk



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable Mayor, Council President and City Council Members

FROM: Jane Bais-DiSessa, Deputy Mayor

DATE: December 7, 2017

Cc: Nevrus Nazarko, Finance Director, Rachel Loughrin, Economic Development, Charles Smith, Wade Trim, and Sheila Grandison, Acting City Clerk

SUBJECT: **City Council Agenda – Consider Resolution to Amend Wade Trim Agreement.**

As you are aware, the Wade Trim Agreement for the combined services: of Building, Code Enforcement and Planning will expire on December 31, 2017. Administration has been working on a plan to transition these services for the last six months. In September 2107, we presented our first phase of this plan to the City Council for Planning and Code Enforcement.

At the November 30, 2017 City Council meeting, the City Council approved the resolution to create the following positions for the Planning function:

Resolution to consider authorizing the Mayor to reinstate the City's planning function and that the following fulltime positions be created and funded at the following annual salary ranges: Planning Manager (\$80,000 to \$85,000), Planner (\$63,000 to \$68,000), and Customer Service Representative (\$28,280 to \$33,280.

Currently, the City is the process of filling these positions, however, in the interim, it is recommended that as budgeted, starting January 1, 2018, that this service be extended on a month-to-month basis until the transition is complete. This will allow the City to perform the Planning function without significant disruption for the citizens of Pontiac.

As such, it is respectfully recommended that the City Council consider the attached resolution (Addendum G) for the Planning operational function currently administered under the Wade Trim Agreement.

JBD

Attachment

RECEIVED
2017 DEC -5 PM 12:57
CITY OF PONTIAC

City of Pontiac
Professional Services Agreement
Addendum G
Amendments to a Professional Services Agreement between
the City of Pontiac and Wade Trim Associates, Inc.

December 7, 2017

The following recitals and representations are entered into this ____ day of December 2017, by and between the City of Pontiac, a municipal corporation, whose address is 47450 Woodward Avenue, Pontiac, Michigan 48342, (City), and Wade Trim Associates, Inc., a Michigan corporation, licensed to do business in the State of Michigan, whose address is 500 Griswold Avenue, Suite 2500, Detroit, Michigan 48226, (Contractor), and are intended to amend an Agreement for Professional Services (Agreement) originally executed by the City and Contractor on February 16, 2011.

Recitals and Representations

WHEREAS, the City and Contractor entered into an Agreement on the 16th day of February, 2011; and,

WHEREAS, the City and Contractor have amended the Agreement via Amendments A through E, most recently in October 2015 (to add Code Enforcement Services); and,

WHEREAS, on June 22, 2017, the City and Contractor entered into an extension, Addendum F, which will expire December 31, 2017, and

WHEREAS, the Contractor has demonstrated its ability to faithfully execute the terms of the Agreement; and,

WHEREAS, the City recognizes the importance of maintaining uninterrupted Building Safety, Code Enforcement and Planning services for residents and businesses; and,

WHEREAS, the City currently does not have staff to perform these services without significant interruption and disruption for the citizens of Pontiac; and,

WHEREAS, it is in the best interest of the City and the Contractor to extend the current agreement to insure uninterrupted services to the Citizens of Pontiac;

NOW, THEREFORE, the City and Contractor agree to amend the original Agreement, for the following professional services:

- Planning Services: as budgeted, starting January 1, 2018, extend services on a month-to-month basis for a monthly fee of \$29,500 until transition is complete; and

ADDENDUM G is executed and made effective as provided above.

Contractor:

Wade Trim Associates, Inc.

By: _____

Printed Name: _____

Title/Position: _____

City of Pontiac

By: _____

Printed Name: _____

Title/Position: _____



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable Mayor, Council President and City Council Members

FROM: Jane Bais-DiSessa, Deputy Mayor

DATE: December 7, 2017

Cc: Nevrus Nazarko, Finance Director, Rachel Loughrin, Economic Development, Charles Smith, Wade Trim, and Sheila Grandison Acting City Clerk

SUBJECT: City Council Agenda – Consider Resolution to Amend Wade Trim Agreement.

As you are aware, the Wade Trim Agreement for the combined services (Building, Code Enforcement and Planning), expires December 31, 2017. Administration has been working on a plan to transition these services for the last six months. In September 2107, we presented our first phase of this plan to the City Council, which included Planning Services.

Currently, the City does not have internal staff to perform these services without significant disruption for the citizens of Pontiac. As such, it is recommended that the City Council consider the attached resolution (Addendum H) for the Code Enforcement operational function currently administered under the Wade Trim agreement.

JBD

Attachment

RECEIVED
2017 DEC -5 PM 12:57
CITY OF PONTIAC

**City of Pontiac
Professional Services Agreement
Addendum H
Amendments to a Professional Services Agreement between
the City of Pontiac and Wade Trim Associates, Inc.**

December 7, 2017

The following recitals and representations are entered into this ____ day of December 2017, by and between the City of Pontiac, a municipal corporation, whose address is 47450 Woodward Avenue, Pontiac, Michigan 48342, (City), and Wade Trim Associates, Inc., a Michigan corporation, licensed to do business in the State of Michigan, whose address is 500 Griswold Avenue, Suite 2500, Detroit, Michigan 48226, (Contractor), and are intended to amend an Agreement for Professional Services (Agreement) originally executed by the City and Contractor on February 16, 2011.

Recitals and Representations

WHEREAS, the City and Contractor entered into an Agreement on the 16th day of February, 2011; and,

WHEREAS, the City and Contractor have amended the Agreement via Amendments A through E, most recently in October 2015 (to add Code Enforcement Services); and,

WHEREAS, on June 22, 2017, the City and Contractor entered into an extension, Addendum F, which will expire December 31, 2017, and

WHEREAS, the Contractor has demonstrated its ability to faithfully execute the terms of the Agreement; and,

WHEREAS, the City recognizes the importance of maintaining uninterrupted Building Safety, Code Enforcement and Planning services for residents and businesses; and,

WHEREAS, the City currently does not have staff to perform these services without significant interruption and disruption for the citizens of Pontiac; and,

WHEREAS, it is in the best interest of the City and the Contractor to extend the current agreement to insure uninterrupted services to the Citizens of Pontiac;

NOW, THEREFORE, the City and Contractor agree to amend the original Agreement, for the following professional services:

- Code Enforcement Services: as budgeted, starting January 1, 2018, extend services for a six-month period for a monthly fee of \$35,300 to end June 30, 2018; and month-to month thereafter until transition is complete. Additionally, a monthly training fee of \$7,000 for training provided to newly hired Code Enforcement Officers.

ADDENDUM H is executed and made effective as provided above.

Contractor:

Wade Trim Associates, Inc.

By: _____

Printed Name: _____

Title/Position: _____

City of Pontiac

By: _____

Printed Name: _____

Title/Position: _____



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable Mayor, Council President and City Council Members

FROM: Jane Bais-DiSessa, Deputy Mayor

DATE: December 7, 2017

Cc: Nevrus Nazarko, Finance Director, Rachel Loughrin, Economic Development, Charles Smith, Wade Trim, and Sheila Grandison Acting City Clerk

SUBJECT: **City Council Agenda – Consider Resolution to Amend Wade Trim Agreement for Building Services.**

As you are aware, the Wade Trim Agreement for the combined services (Building, Code Enforcement and Planning), expires December 31, 2017. Administration has been working on a plan to transition these services for the last six months. In September 2107, we presented our first phase of this plan to the City Council, which included Planning Services.

Currently, the City does not have internal staff to perform these services without significant disruption for the citizens of Pontiac. As such, it is recommended that the City Council consider the attached resolution (Addendum I) for the Building and Safety operational function currently administered under the Wade Trim agreement.

JBD

Attachment

RECEIVED
2017 DEC -5 PM 12:57
CITY OF PONTIAC

City of Pontiac
Professional Services Agreement
Addendum I
Amendments to a Professional Services Agreement between
the City of Pontiac and Wade Trim Associates, Inc.

December 7, 2017

The following recitals and representations are entered into this ____ day of December 2017, by and between the City of Pontiac, a municipal corporation, whose address is 47450 Woodward Avenue, Pontiac, Michigan 48342, (City), and Wade Trim Associates, Inc., a Michigan corporation, licensed to do business in the State of Michigan, whose address is 500 Griswold Avenue, Suite 2500, Detroit, Michigan 48226, (Contractor), and are intended to amend an Agreement for Professional Services (Agreement) originally executed by the City and Contractor on February 16, 2011.

Recitals and Representations

WHEREAS, the City and Contractor entered into an Agreement on the 16th day of February, 2011; and,

WHEREAS, the City and Contractor have amended the Agreement via Amendments A through E, most recently in October 2015 (to add Code Enforcement Services); and,

WHEREAS, on June 22, 2017, the City and Contractor entered into an extension, Addendum F, which will expire December 31, 2017, and

WHEREAS, the Contractor has demonstrated its ability to faithfully execute the terms of the Agreement; and,

WHEREAS, the City recognizes the importance of maintaining uninterrupted Building Safety, Code Enforcement and Planning services for residents and businesses; and,

WHEREAS, the City currently does not have staff to perform these services without significant interruption and disruption for the citizens of Pontiac; and,

WHEREAS, it is in the best interest of the City and the Contractor to extend the current agreement to insure uninterrupted services to the Citizens of Pontiac;

NOW, THEREFORE, the City and Contractor agree to amend the original Agreement, for the following professional services:

- Building and Safety: as budgeted, starting January 1, 2018, extend services for a three-year period for a monthly fee up to \$135,500 subject to contract negotiation with the Mayor, ending December 31, 2020.

ADDENDUM I is executed and made effective as provided above.

Contractor:

Wade Trim Associates, Inc.

By: _____

Printed Name: _____

Title/Position: _____

City of Pontiac

By: _____

Printed Name: _____

Title/Position: _____



CITY OF PONTIAC OFFICIAL MEMORANDUM

Executive Branch

TO: Pontiac City Council

FROM: Jane Bais-DiSessa, Deputy Mayor, at the request of
John V. Balint, Acting Director of DPW *JB*

DATE: December 8, 2017

RE: 2018 NoHaz Agreement

In 2016, the City executed an agreement with Oakland County in order to participate in the household hazardous waste collection program administered by the County on behalf of 14 cities, townships and villages in the NO HAZ North Oakland Household Hazardous Waste Consortium. Seven (7) collection events were held at various locations, throughout Oakland County. According to the 2017 Preliminary Collection Report, a total of 5,760 Oakland County residents participated in the program; 57 from Pontiac.

The 2018 Interlocal Agreement has been distributed by the County and has been favorably reviewed by the Law Department. Both the administrative costs and the disposal costs are the same as last year due. The administrative costs are calculated on the percentage of total population in the NO HAZ communities; Pontiac's share is \$6,112.75. We are requesting Council's authorization of \$6,112.75 for the 2005 NO HAZ program.

A resolution is attached for your consideration.

JVB

Attachments

2017 DEC -5 PM12:47

REMOVED



ECONOMIC DEVELOPMENT
& COMMUNITY AFFAIRS

OAKLAND COUNTY EXECUTIVE L. BROOKS PATTERSON

Bret Rasegan, Manager - Planning
Office: (248) 858-5445 | raseganb@oakgov.com

November 22, 2017

Dear NoHaz Consortium member:

Attached please find the 2018 NoHaz program Interlocal agreement to be formally considered by your Board or Council during your December or January meetings. The only changes from the 2017 Interlocal agreement are the dates and the pricing information that is included in Exhibits A and B.

A resolution is attached which approves the agreement as well as ensures that each community appoints a representative to the NoHaz Advisory Board. It also lists whether your community wishes to charge residents \$10, \$15 or to not charge them at the collection events in 2018.

Please send the following back **no later than January 31, 2018**:

- **two** signed copies of the Interlocal Agreement (note that on the front page and page 13 you need to fill in an address)
- signed resolution
- copy of meeting minutes (you can send draft minutes)

Information should be sent to the following address:

Oakland County Economic Development & Community Affairs
Attn: Whitney Calio
2100 Pontiac Lake Road, Bldg. 41W
Waterford, MI 48328-0409

Feel free to contact Whitney Calio of my staff at 248-858-2071 or at caliw@oakgov.com if you need additional information or if there is a problem in meeting the deadline. Thank you for your participation in the NoHaz program. I look forward to working with you next year.

Sincerely,

Bret Rasegan, Manager
Oakland County Planning

**NORTH OAKLAND COUNTY HOUSEHOLD HAZARDOUS WASTE
INTERLOCAL AGREEMENT
BETWEEN
OAKLAND COUNTY
AND
[NAME OF MUNICIPALITY]**

This Interlocal Agreement ("the AGREEMENT") is made between Oakland County, a Constitutional and Municipal Corporation, 1200 North Telegraph, Pontiac, Michigan 48341 ("COUNTY"), and [Name and Address of Municipality] _____ ("MUNICIPALITY").

In this AGREEMENT the COUNTY and the MUNICIPALITY may also be referred to individually as "Party" or jointly as "Parties."

1. INTRODUCTORY STATEMENTS

- 1.1 The northern cities, villages and townships of Oakland COUNTY are committed to protection of the natural environment and preventing toxic materials from entering their waterways and landfill resources.
- 1.2 In order to accomplish this goal, there is a need to provide regular and easily accessible household hazardous waste collection services to north Oakland COUNTY residents.
- 1.3 These northern cities, villages and townships have sought the COUNTY'S assistance in coordinating a household hazardous waste collection program.
- 1.4 The COUNTY has agreed to assist these communities by coordinating and facilitating this AGREEMENT in order to form a comprehensive household hazardous waste management program.
- 1.5 This interlocal AGREEMENT will allow participating communities to obtain economic benefits of scale, without placing an undue burden on any one community, in the provision of a coordinated program of household hazardous waste collection and disposal. Residents of these communities will enjoy access to a coordinated, convenient, ongoing collection program supported by an aggressive educational program regarding the hazards of household hazardous wastes and their proper re-use and disposal.

2. PURPOSE OF AGREEMENT Pursuant to the Urban Cooperation Act of 1967, 1967 PA 7, MCL 124.501 *et seq.*, the COUNTY and the MUNICIPALITY enter into this AGREEMENT for the purpose of developing a comprehensive household hazardous waste management program ("Program") that will meet the following goals and objectives.

3. **GOALS OF THE PROGRAM:**

- 3.1 To provide regular, reliable and easily accessible household hazardous waste collection services to the residents of northern Oakland COUNTY. The Program will help prevent toxic materials from entering Oakland COUNTY'S waterways, water tables, and landfill resources and help to remove them from potentially hazardous situations in area households.
- 3.2 To establish, coordinate, and promote an educational program to inform residents about re-use, return, and reduction of potentially hazardous materials, bolster community spirit, and educate residents about environmentally sensitive behavior in general.

4. **OBJECTIVES OF THE PROGRAM:**

- 4.1 Increase public awareness of return, disposal, and source reduction options.
- 4.2 Initiate a reliable, regular, and convenient collection program for household hazardous waste collection;
- 4.3 Promote knowledge of program requirements;
- 4.4 Help divert significant quantities of household hazardous materials from landfills;
- 4.5 Help return significant quantities of potentially household hazardous materials to point of purchase or recycling outlets for proper disposition; and
- 4.6 Collect data about the amount and type of household hazardous materials in north Oakland COUNTY and their ultimate disposition.

NOW THEREFORE, in consideration of the mutual promises, obligations, representations, and assurances in this AGREEMENT, the Parties agree to the following:

5. **DEFINITIONS** The following words and expressions used throughout this AGREEMENT, whether used in the singular or plural, within or without quotation marks, or possessive or non-possessive, shall be defined, read, and interpreted as follows:

- 5.1 **"ACCEPTABLE HAZARDOUS WASTE"** shall be defined as any and all forms of HAZARDOUS WASTE that the HAZARDOUS WASTE VENDOR specifically agrees to collect and properly dispose of and/or recycle at any and all collection events throughout this program.
- 5.2 **"ADMINISTRATIVE COSTS"** shall be defined as any and all Program costs, expenses, wages, salaries, fringe benefit costs, equipment, supplies, administrative overhead, building costs, or any costs and expenses that are incurred and/or paid by the COUNTY in the administration of this program. Administrative Costs and HAZARDOUS WASTE COLLECTION COSTS are mutually exclusive cost categories.

- 5.3 **"AGENT" OR "AGENTS"** of the COUNTY or the MUNICIPALITY, shall be defined to include any and all of that Party's officers, elected officials, appointed officials, directors, board members, council members, authorities, boards, committees, commissions, employees, managers, departments, divisions, volunteers, AGENTS, representatives, and/or any such persons' successors or predecessors, employees, attorneys, or auditors (whether such persons act or acted in their personal, representative, or official capacities), and/or any and all persons acting by, through, under, or in concert with any of them. AGENT shall also include any person who was an AGENT at any time during this AGREEMENT but for any reason is no longer employed, appointed, or elected in that capacity. AGENT, as defined for any purpose in this AGREEMENT, shall NOT include the HAZARDOUS WASTE VENDOR.
- 5.4 **"AGREEMENT"** means the terms and conditions of this AGREEMENT, Exhibits A and B referenced below and any other mutually agreed to and properly executed modification, amendment, addendum, or change order.
- 5.4.1. **Exhibit A** (ADMINISTRATIVE and HAZARDOUS WASTE COLLECTION COSTS)
- 5.4.2. **Exhibit B** (Population statistics and estimates of percentage of total participation in program contributed by MUNICIPALITY used to calculate ADMINISTRATIVE COSTS of this program for participating MUNICIPALITIES).
- 5.5 **"CLAIM(S)"** means any alleged losses, claims, complaints, demands for relief or damages, suits, causes of action, proceedings, judgments, deficiencies, liability, penalties, litigation, costs, and/or expenses of any kind which are imposed upon, incurred by, or asserted against a Party.
- 5.6 **"COLLECTION SCHEDULE"** means the dates scheduled for hazardous waste collection services throughout North Oakland County. Oakland County will schedule dates and times for hazardous waste collection services for the 2018 year program in cooperation with the NO HAZ Board.
- 5.7 **"COLLECTION SITE PROTOCOL"** shall be a clearly defined set of operating procedures for every scheduled hazardous waste collection event. This protocol shall clearly define the duties and responsibilities of the HAZARDOUS WASTE VENDOR, COUNTY, and MUNICIPALITY at each collection event. The protocol shall clearly provide that the HAZARDOUS WASTE VENDOR is solely responsible for the collection, sorting, transport and proper disposition of all ACCEPTABLE HAZARDOUS WASTE collected at an event. The COUNTY has developed this protocol in consultation with the NO HAZ VENDOR and NO HAZ BOARD, and will update as needed or requested by the parties

- 5.8 **"COUNTY"** means Oakland County, a Municipal and Constitutional Corporation including, but not limited to, all of its departments, divisions, the County Board of Commissioners, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, AGENTS, subcontractors, volunteers, and/or any such persons' successors.
- 5.9 **"HAZARDOUS WASTE VENDOR"** shall be defined as the vendor selected by the COUNTY to perform hazardous waste collection services on behalf of participating municipalities. The HAZARDOUS WASTE VENDOR will conduct and oversee household hazardous waste collection events throughout northern Oakland County. The vendor will be responsible for all core operations at each event including receiving and handling of household hazardous wastes, waste characterization, manifestation and ultimate disposition of materials collected. The vendor will assume all liability for ACCEPTABLE HAZARDOUS WASTE once collected.
- 5.10 **"HAZARDOUS WASTE COLLECTION COSTS"** shall be defined as any and all actual amounts paid to the HAZARDOUS WASTE VENDOR by the COUNTY on behalf of participating MUNICIPALITIES for the collection and disposal of ACCEPTABLE HAZARDOUS WASTE.
- 5.11 **"MUNICIPALITY"** as defined above also includes, without limitation, its Council, any and all of its departments, its divisions, elected and appointed officials, directors, board members, council members, commissioners, authorities, committees, employees, AGENTS, subcontractors, volunteers, and/or any such persons' successors.
- 5.12 **"NORTH OAKLAND HOUSEHOLD HAZARDOUS WASTE ADVISORY BOARD" ("NO HAZ BOARD")** means an advisory board made up of one appointed representative from each participating MUNICIPALITY. This board shall provide counsel and recommendations to the COUNTY regarding the operation and administration of this Program.
- 5.13 **"PARTICIPATING MUNICIPALITY"** means a city, village or township that has agreed to participate in the North Oakland Household Hazardous Waste Program. Municipal participation shall be evidenced by a duly executed Interlocal Agreement between Oakland County and a city, village or township.
- 5.14 **"PROGRAM HOST"** means any entity, public or private, which has agreed to allow the COUNTY, the PARTICIPATING MUNICIPALITIES, and the HAZARDOUS WASTE VENDOR to conduct a hazardous waste collection event on its premises.
6. **COUNTY RESPONSIBILITIES** Subject to the terms and conditions contained in this AGREEMENT, and applicable changes in law, the COUNTY shall carry out the following:

- 6.1 The COUNTY shall be responsible for development and operation of the Program and shall enter into contracts for the benefit of the Program. Such contracts include, but are not limited to, a contract with the HAZARDOUS WASTE VENDOR.
- 6.2 The COUNTY, together with the NO HAZ BOARD, will monitor the services and activities of the HAZARDOUS WASTE VENDOR in order to insure that all terms and conditions of the HAZARDOUS WASTE VENDOR contract are satisfied. The COUNTY will take whatever steps are reasonably necessary, in its sole discretion, to modify or correct a deficiency in the HAZARDOUS WASTE VENDOR service and/or to enforce or terminate the agreement in the event of default by the HAZARDOUS WASTE VENDOR.
- 6.3 The COUNTY shall be responsible for selecting dates and locations for hazardous waste collection services with the recommendation of the NO HAZ BOARD.
- 6.4 The COUNTY, in consultation with the HAZARDOUS WASTE VENDOR and NO HAZ BOARD, shall develop a COLLECTION SITE PROTOCOL for hazardous waste collection events within the MUNICIPALITY.
- 6.5 The COUNTY, in consultation with the NO HAZ BOARD, shall formulate a survey to be filled out by MUNICIPAL residents upon their arrival at a scheduled collection event. This survey will require residents to provide their name and address (including street, city or township and zip code). Information gathered within this survey shall only be used for reasons directly related to the administration of the NO HAZ program including, but not limited to, the calculation of HAZARDOUS WASTE COLLECTION COSTS for PARTICIPATING MUNICIPALITIES. Each NO HAZ BOARD member shall have the right at any time to review the addresses of participants to verify all are located within the MUNICIPALITY. All personal identifying information collected from MUNICIPAL residents shall be regarded as confidential and will not be released by the COUNTY, the MUNICIPALITY or a NO HAZ BOARD member except as required by law or court order.
- 6.6 The COUNTY shall provide educational support for the Program.

7. **MUNICIPALITY'S RESPONSIBILITIES**

- 7.1 Upon approval of this agreement, the MUNICIPALITY shall appoint a MUNICIPAL AGENT to the NO HAZ BOARD to represent its interests. This Board member shall be available to assist the COUNTY, as necessary, in the administration of the program within the MUNICIPALITY.
- 7.2 Each MUNICIPALITY will provide MUNICIPAL AGENT(S) to work at each collection event as the Parties agree that many workers are needed to make each collection event run smoothly. The MUNICIPAL AGENT(S) provided shall assist the COUNTY and HAZARDOUS WASTE VENDOR in the set-up and operation of hazardous waste collection events. Such

assistance may include, but is not limited to, traffic control, greeting residents, administering surveys, and accepting donations on behalf of the Program. Under no circumstances will a MUNICIPAL AGENT accept, handle, dispose of, or otherwise come into contact with household hazardous waste. The MUNICIPALITY will provide the following numbers of MUNICIPAL AGENTS for each scheduled collection event based upon the most recent census figures available:

7.2.1 A MUNICIPALITY with a population of 30,000 or less will provide one MUNICIPAL AGENT at each scheduled collection event. A MUNICIPALITY with a population of 30,001 or more is required to provide two MUNICIPAL AGENTS at each scheduled collection event. One additional MUNICIPAL AGENT will be provided by each MUNICIPALITY for the collection event held at Oakland University.

7.3 In the event that a MUNICIPALITY fails to supply the required MUNICIPAL AGENTS to work at any given collection event, the MUNICIPALITY will be assessed the following fees based upon the most recent available census figures.

7.3.1 A MUNICIPALITY that had 125 participants or less at the 2017 NO HAZ events will be assessed \$50.00 per collection event in 2018.

7.3.2 A MUNICIPALITY that had more than 126 but less than 401 total participants at the 2017 NO HAZ events will be assessed \$125.00 per collection event in 2018.

7.3.3 A MUNICIPALITY that had 401 or more total participants at the 2017 NO HAZ events will be assessed \$250.00 per collection event in 2018.

7.3.4 In the event a PARTICIPATING MUNICIPALITY that is new to the Program in 2018 fails to provide the required MUNICIPAL AGENT(S) at a scheduled collection event, the MUNICIPALITY will be assessed a fee of \$50.00 per event if it has a population of less than 10,000, \$125.00 per event if it has a population between 10,001 and 50,000, and \$250.00 per event if it has a population of 50,001 or more.

8. **MUNICIPAL AGENTS SHALL NOT BE DEEMED COUNTY EMPLOYEES** The Parties agree that no MUNICIPALITY AGENT shall be considered a COUNTY employee or COUNTY AGENT for any purpose under this AGREEMENT. The MUNICIPALITY agrees that it shall be solely and completely liable for any and all MUNICIPALITY AGENTS' past, present, or future wages, compensation, overtime wages, expenses, fringe benefits, pension or retirement benefits, travel expenses, mileage allowances, training expenses, transportation costs, and/ or other allowances of reimbursements of any kind, including, but not limited to, workers' disability compensation benefits,

unemployment compensation, Social Security Act protections and benefits, any employment taxes and/or any other statutory or contractual right or benefit based on or in any way related to any MUNICIPALITY AGENT'S employment status. The MUNICIPALITY agrees to indemnify and hold harmless the COUNTY from and against any and all CLAIM(S) which are imposed upon, incurred by, or which are based upon, result from, or arise from, or are in any way related to, any MUNICIPALITY AGENT'S wages, compensation, benefits or other employment-related or based rights, including, but not limited to, those described in this Paragraph.

9. **NEITHER THE COUNTY OR MUNICIPALITY SHALL HANDLE OR DISPOSE OF HAZARDOUS WASTE** Neither the MUNICIPALITY nor the COUNTY is responsible for handling or disposing of household hazardous waste. This function will be performed solely by the HAZARDOUS WASTE VENDOR.
10. **MUNICIPALITY MAY LIMIT PARTICIPATION OF RESIDENTS** If a MUNICIPALITY decides to limit the number of residents it will allow to participate at one or more collection events, the MUNICIPALITY will identify a method to limit such participation (which may include, for example, a voucher, pre-registration or other reasonable process). The MUNICIPALITY must communicate the process it intends to use to limit resident participation to the COUNTY in advance of a collection event to ensure smooth enforcement of this process and to allow the COUNTY ample time to communicate the process to potential resident participants in applicable advertising regarding upcoming events.
11. **PARTICIPATION FEES** A MUNICIPALITY may charge participating residents a fee to participate in NO HAZ events. This fee will be collected by the COUNTY at the NO HAZ events unless other arrangements have been made with the COUNTY in advance. The fee shall be \$10 or \$15 and the MUNICIPALITY will indicate via resolution whether or not a fee is to be charged, and if so, the amount.
12. **FINANCIAL RESPONSIBILITIES**
 - 12.1 The COUNTY, subject to the terms of this AGREEMENT, will advance such funds as are necessary to pay the HAZARDOUS WASTE COLLECTION COSTS and ADMINISTRATIVE COSTS of the PROGRAM. The MUNICIPALITY shall repay the COUNTY in the following manner.
 - 12.2 The MUNICIPALITY shall repay the COUNTY a percentage of the total ADMINISTRATIVE COST of the PROGRAM. The MUNICIPALITY'S share of administrative costs under the program shall be the sum total of two different calculations. The first calculation, based upon MUNICIPAL population figures, represents half of the MUNICIPALITIES share of ADMINISTRATIVE COSTS under the program. This figure shall be based upon total MUNICIPAL population compared to the overall population of participating MUNICIPALITIES program-wide. For purposes of illustration without limitation, if the MUNICIPALITY consists

of 1,000 residents and there are a total of 10,000 MUNICIPAL residents served program-wide, then the MUNICIPALITY would pay 10 (ten) percent of this half of the PROGRAM'S total ADMINISTRATIVE COST. The second half of the MUNICIPALITY'S total ADMINISTRATIVE COST shall be the percentage of total MUNICIPAL participation compared to the overall participation of residents program-wide. For purposes of illustration without limitation, if 1,000 MUNICIPAL residents participate in the program and there are a total of 10,000 MUNICIPAL residents participating program-wide, then the MUNICIPALITY would pay 10 (ten) percent of this half of the ADMINISTRATIVE COST.

12.2.1 If a MUNICIPALITY hosts a hazardous waste collection event as part of this program on municipally-owned property, the MUNICIPALITY shall be reimbursed by the COUNTY out of the program's administrative budget. The amount of money provided to reimburse a MUNICIPALITY for hosting a collection event shall be a set amount and will be determined by the NO HAZ BOARD. Any expenses incurred by a MUNICIPALITY which are beyond the amount determined by the NO HAZ BOARD to be appropriate for a collection event shall be the sole responsibility of the MUNICIPALITY.

12.2.2 The MUNICIPALITY shall also repay the COUNTY a portion of the HAZARDOUS WASTE COLLECTION COSTS. The HAZARDOUS WASTE COLLECTION COSTS will be all costs paid by the COUNTY to the HAZARDOUS WASTE VENDOR for collecting and disposing of a MUNICIPAL resident's hazardous waste material, less any fees collected at the NO HAZ events for this purpose. The MUNICIPALITY may cap its HAZARDOUS WASTE COLLECTION COSTS by limiting the number of MUNICIPAL residents that may participate in collection events. The MUNICIPALITY shall advise the COUNTY of any such limitation upon MUNICIPAL resident participation.

12.2.3 The COUNTY shall submit an invoice to the MUNICIPALITY itemizing all amounts due under this AGREEMENT for its share of ADMINISTRATIVE and HAZARDOUS WASTE COLLECTION COSTS. The MUNICIPALITY shall pay the invoice submitted to the COUNTY within thirty (30) days after receipt of the invoice.

12.2.4 Except as expressly provided in this AGREEMENT, the COUNTY is not responsible for any cost, fee, fine or penalty incurred by the MUNICIPALITY in connection with this AGREEMENT.

13. MUNICIPALITY'S FAILURE TO PAY

- 13.1 If the MUNICIPALITY, for any reason, fails to pay the COUNTY any monies when and as due under this AGREEMENT, the MUNICIPALITY agrees that unless expressly prohibited by law, the COUNTY or the County Treasurer, at their sole option, shall be entitled to setoff from any other MUNICIPALITY funds that are in the County's possession for any reason. Funds include but are not limited to the Delinquent Tax Revolving Fund ("DTRF"). Any setoff or retention of funds by the COUNTY shall be deemed a voluntary assignment of the amount by the MUNICIPALITY to the COUNTY. MUNICIPALITY waives any CLAIMS against the COUNTY or its Officials for any acts related specifically to the COUNTY'S offsetting or retaining such amounts. This paragraph shall not limit MUNICIPALITY'S legal right to dispute whether the underlying amount retained by the COUNTY was actually due and owing under this AGREEMENT.
- 13.2 If the COUNTY chooses not to exercise its right to setoff or if any setoff is insufficient to fully pay the COUNTY any amounts due and owing the COUNTY under this AGREEMENT, the COUNTY shall have the right to charge up to the then-maximum legal interest on any unpaid amount. Interest charges shall be in addition to any other amounts due to the COUNTY under this AGREEMENT. Interest charges shall be calculated using the daily unpaid balance method and accumulate until all outstanding amounts and accumulated interest are fully paid.
- 13.3 Nothing in this Section shall operate to limit the COUNTY'S right to pursue or exercise any other legal rights or remedies under this AGREEMENT against MUNICIPALITY to secure reimbursement or amounts due the COUNTY under this AGREEMENT. The remedies in this Section shall be available to the COUNTY on an ongoing and successive basis if the MUNICIPALITY at any time becomes delinquent in its payment. Notwithstanding any other term and condition in this AGREEMENT, if the COUNTY pursues any legal action in any court to secure its payment under this AGREEMENT, the MUNICIPALITY agrees to pay all costs and expenses, including attorney's fees and court costs, incurred by the COUNTY in the collection of any amount owed by MUNICIPALITY.

14. EACH PARTY RESPONSIBLE FOR ITS OWN ACTIONS UNDER AGREEMENT

- 14.1 Each Party shall be responsible for any CLAIMS made against that Party and for the acts of its Employees or AGENTS.
- 14.2 In any CLAIMS that may arise from the performance of this AGREEMENT, each Party shall seek its own legal representation and bear the costs associated with such representation including any attorney fees.

14.3 Except as otherwise provided in this AGREEMENT, neither Party shall have any right under any legal principle to be indemnified by the other Party or any of its employees or AGENTS in connection with any CLAIM.

14.4 This AGREEMENT does not, and is not intended to, impair, divest, delegate or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty or immunity of the Parties. Nothing in this AGREEMENT shall be construed as a waiver of governmental immunity for either PARTY.

15. **HAZARDOUS WASTE VENDOR INDEMNIFICATION OF THE MUNICIPALITY**

15.1 The COUNTY shall require the following indemnification for participating MUNICIPALITIES within the HAZARDOUS WASTE VENDOR CONTRACT:

15.1.1 "The Contractor will protect, defend and indemnify the COUNTY, PROGRAM HOSTS, and all PARTICIPATING MUNICIPALITIES, together with their controllers, trustees, officers, agents, servants, volunteers, and employees from any and all liabilities, claims, liens, demands, and costs, of whatever kind and nature which may result in injury or death to any persons, and for loss or damage to any property, including property owned or in the care, custody or control of the COUNTY, PROGRAM HOSTS or PARTICIPATING MUNICIPALITIES in connection with or in any way incident to or arising out of the occupancy, use, service operations, performance, or non-performance of work in connection with this contract resulting in whole or in part from negligent acts or omissions of the Contractor, or any sub-contractor, or any employee, agent or representative of the Contractor or subcontractor."

15.1.2 "The indemnification rights contained in this Contract are in excess and over and above any valid and collectible insurance rights/policies."

15.1.3 "Contractor waives and releases all actions, liabilities, loss and damage including any subrogated rights it may have against the COUNTY, PROGRAM HOSTS, or PARTICIPATING MUNICIPALITIES based upon any CLAIM brought against the COUNTY, PROGRAM HOST, OR PARTICIPATING MUNICIPALITIES by a Contractor Employee."

16. **LENGTH OF AGREEMENT** This AGREEMENT shall become effective at 12:01 A.M., January 1, 2018, and shall remain in effect continuously until it expires, without any further act or notice being required by either party, at 11:59 P.M. on December 31, 2018.

17. **TERMINATION OR CANCELLATION OF AGREEMENT** Once the agreement commences (as described in section 11 above), the parties may only terminate this AGREEMENT as provided below:
- 17.1 Either Party may terminate or cancel this AGREEMENT for any reason upon thirty (30) days' notice. The effective date for termination or cancellation shall be clearly stated in the notice. If the MUNICIPALITY terminates this AGREEMENT after commencement of the program, it shall nevertheless remain liable for its share of the ADMINISTRATIVE COSTS and HAZARDOUS WASTE COLLECTION COSTS for the entire term of this Agreement.
- 17.2 The COUNTY may cancel this AGREEMENT at any time should the MUNICIPALITY "default" on any obligation under this AGREEMENT. "Default" is defined as the failure of the MUNICIPALITY and/or any MUNICIPALITY AGENT to fulfill any MUNICIPALITY obligations under this AGREEMENT. If time permits, but not otherwise, the COUNTY shall notify the MUNICIPALITY in writing of any default and provide the MUNICIPALITY with an opportunity to correct the situation. If after a reasonable period to cure the default, the MUNICIPALITY has not corrected the circumstances giving rise to the notice, the COUNTY may cancel this AGREEMENT and terminate the MUNICIPALITY'S further participation in this program.
18. **SUSPENSION OF SERVICES** Upon notice to the MUNICIPALITY and the NO HAZ ADVISORY BOARD the COUNTY may immediately suspend this AGREEMENT if the MUNICIPALITY has failed to reasonably comply, within the COUNTY'S sole discretion, with federal, state, or local law, or any requirements contained in this AGREEMENT. The right to suspend services is in addition to the right to terminate or cancel this AGREEMENT contained in Section 13. The COUNTY shall not incur penalty, expense, or liability if services are suspended under this Section.
19. **LIMITATION OF LIABILITY** The Parties agree that the COUNTY used its best efforts and judgment when selecting a HAZARDOUS WASTE VENDOR for this program. The MUNICIPALITY agrees to waive any CLAIM(S) or liability against the COUNTY for any material defects, errors, mistakes, negligence, or omissions in the bid specifications, the bid procedure, the bid award process, the HAZARDOUS WASTE VENDOR contract negotiation process, the preparation or execution of the HAZARDOUS WASTE VENDOR contract, or any other errors or mistakes of fact by the COUNTY in the selection of the HAZARDOUS WASTE VENDOR. The MUNICIPALITY agrees that at all times and for all purposes under this AGREEMENT, the HAZARDOUS WASTE VENDOR relationship to the COUNTY shall be that of an Independent Contractor and not a COUNTY AGENT as defined herein. The MUNICIPALITY hereby agrees to waive any CLAIM(S) or liability against the COUNTY based in any manner upon any act or omission of the HAZARDOUS WASTE VENDOR.

20. **NO THIRD PARTY BENEFICIARIES** Except as provided for the benefit of the Parties, this AGREEMENT does not and is not intended to create any obligation, duty, promise, contractual right or benefit, right to indemnification, right to subrogation, and/or any other right, in favor of any other person or entity.
21. **COMPLIANCE WITH LAWS** Each Party shall comply with all federal, state, and local statutes, ordinances, regulations, administrative rules, and requirements applicable to its activities performed under this AGREEMENT, including, but not limited to, the policies, procedures, rules and regulations attached as Exhibits to this AGREEMENT, and properly promulgated amendments to those Exhibits.
22. **DISCRIMINATION** The Parties shall not discriminate against their employees, AGENTS, applicants for employment, or another persons or entities with respect to hire, tenure, terms, conditions, and privileges of employment, or any matter directly or indirectly related to employment in violation of any federal, state or local law.
23. **PERMITS AND LICENSES** Each Party shall be responsible for obtaining and maintaining, throughout the term of this AGREEMENT, all licenses, permits, certificates, and governmental authorizations necessary to perform all its obligations under this AGREEMENT. Upon request, a Party shall furnish copies of any permit, license, certificate or governmental authorization to the requesting Party.
24. **RESERVATION OF RIGHTS** This AGREEMENT does not, and is not intended to impair, divest, delegate, or contravene any constitutional, statutory, and/or other legal right, privilege, power, obligation, duty, or immunity of the Parties.
25. **FORCE MAJEURE** Each Party shall be excused from any obligations under this AGREEMENT during the time and to the extent that a Party is prevented from performing due to causes beyond such Party's control, including, but not limited to, an act of God, war, acts of government (other than the Parties'), fire, strike, labor disputes, civil disturbances, reduction of power source, or any other circumstances beyond the reasonable control of the affected Party. Reasonable notice shall be given to the affected Party of any such event.
26. **IN-KIND SERVICES**. This AGREEMENT does not authorize any in-kind services, unless previously agreed to by the Parties and specifically listed herein.
27. **DELEGATION/SUBCONTRACT/ASSIGNMENT** A Party shall not delegate, subcontract, and/or assign any obligations or rights under this AGREEMENT without the prior written consent of the other Party. A delegation, subcontract and/or assignment made without the prior written consent of the other Party is void.
28. **NO IMPLIED WAIVER** Absent a written waiver, no act, failure, or delay by a Party to pursue or enforce any rights or remedies under this AGREEMENT shall constitute a waiver of those rights with regard to any existing or subsequent breach of this AGREEMENT. No waiver of any term, condition, or provision of this AGREEMENT, whether by conduct or otherwise, in one or more instances,

shall be deemed or construed as a continuing waiver of any term, condition, or provision of this AGREEMENT. No waiver by either Party shall subsequently affect its right to require strict performance of this AGREEMENT.

29. **SEVERABILITY** If a court of competent jurisdiction finds a term, or condition, of this AGREEMENT to be illegal or invalid, then the term, or condition, shall be deemed severed from this AGREEMENT. All other terms, conditions, and provisions of this AGREEMENT shall remain in full force.
30. **CAPTIONS** The section and subsection numbers, captions, and any index to such sections and subsections contained in this AGREEMENT are intended for the convenience of the reader and are not intended to have any substantive meaning. The numbers, captions, and indexes shall not be interpreted or be considered as part of this AGREEMENT. Any use of the singular or plural number, any reference to the male, female, or neuter genders, and any possessive or non-possessive use in this AGREEMENT shall be deemed the appropriate plurality, gender or possession as the context requires.
31. **NOTICES** Notices given under this AGREEMENT shall be in writing and shall be personally delivered, sent by express delivery service, certified mail, or first class U.S. mail postage prepaid, and addressed to the person listed below. Notice will be deemed given on the date when one of the following first occur: (1) the date of actual receipt; (2) the next business day when notice is sent express delivery service or personal delivery; or (3) three days after mailing first class or certified U.S. mail.
- 31.1 If Notice is sent to the COUNTY, it shall be addressed and sent to: Oakland County Waste Resource Management, 2100 Pontiac Lake Road, Bldg. 41W, Waterford, MI 48328-0409 and Chairperson of the Oakland County Board of Commissioners, 1200 North Telegraph, Pontiac, Michigan 48341.
- 31.2 If Notice is sent to the MUNICIPALITY, it shall be addressed to:
- 31.3 Either Party may change the address and/or individual to which Notice is sent by notifying the other Party in writing of the change.
32. **GOVERNING LAW/CONSENT TO JURISDICTION AND VENUE** This AGREEMENT shall be governed, interpreted, and enforced by the laws of the State of Michigan. Except as otherwise required by law or court rule, any action brought to enforce, interpret, or decide any CLAIM arising under or related to this AGREEMENT shall be brought in the 6th Judicial Circuit Court of the State of Michigan, the 50th District Court of the State of Michigan, or the United States District Court for the Eastern District of Michigan, Southern Division, as dictated by the applicable jurisdiction of the court. Except as otherwise required by law or court rule, venue is proper in the courts set forth above.

33. AGREEMENT APPROVAL AND AMENDMENT

33.1 This AGREEMENT shall not become effective prior to the approval by concurrent resolutions of the County Board of Commissioners and the governing Legislative Body of the MUNICIPALITY. The approval and terms of this AGREEMENT shall be entered in the official minutes and proceedings of the County Board of Commissioners and governing Legislative Body of the MUNICIPALITY and shall also be filed with the office of the Clerk for the County and the MUNICIPALITY. In addition, this AGREEMENT, and any subsequent amendments, shall be filed with the Secretary of State for the State of Michigan by the COUNTY and shall not become effective or implemented prior to its filing with the Secretary of State.

33.2 Except as expressly provided herein, this AGREEMENT may be amended only by concurrent written resolutions of the County Board of Commissioners and the governing Legislative Body of the MUNICIPALITY. This AGREEMENT shall not be changed, supplemented, or amended except as provided for herein, and no other act, verbal representation, document, usage, or custom shall be deemed to amend or modify this AGREEMENT.

34. **ENTIRE AGREEMENT** This AGREEMENT constitutes the complete and entire AGREEMENT between the COUNTY and MUNICIPALITY and fully supersedes any and all prior AGREEMENTS or contemporaneous representations or understandings, verbal or oral, between them concerning and in any way related to the subject matter of this AGREEMENT. It is further agreed that the terms and conditions herein are contractual and are not a mere recital and that are no other AGREEMENTS, understandings, contracts, or representations between the MUNICIPALITY and the COUNTY in any way related to the subject matter hereof, except as expressly stated herein.

35. **CONCLUSION:** For and in consideration of the mutual promises, acknowledgements and representations set forth in this AGREEMENT, and for other good and valuable consideration, the adequacy of which is hereby acknowledged, the COUNTY and MUNICIPALITY hereby agree to be bound by the above terms and provisions.

IN WITNESS WHEREOF, _____ hereby acknowledges that he has been authorized by a resolution of the _____, a certified copy of which is attached, to execute this AGREEMENT on behalf of the MUNICIPALITY and hereby accepts and binds the MUNICIPALITY to the terms and conditions of this AGREEMENT.

EXECUTED: _____ DATE: _____

WITNESSED: _____ DATE: _____

IN WITNESS WHEREOF, the Chairperson of the Oakland County Board of Commissioners, hereby acknowledges that he has been authorized by a resolution of the Oakland County Board of Commissioners, a certified copy of which is attached, to execute this AGREEMENT on behalf of the County of OAKLAND and hereby accepts and binds the COUNTY to the terms and conditions of this AGREEMENT.

EXECUTED: _____ DATE: _____
Michael Gingell, Chairperson
Oakland County Board of Commissioners

WITNESSED: _____ DATE: _____

EXHIBIT A

2018 Projected NO HAZ Budget

2018 NO HAZ Program Cost Details		
Program Management		\$27,170.00
Collection Costs		5,900.00
Administration		1,122.00
Education and Outreach		\$14,000
TOTAL		\$48,192.00
2018 NO HAZ Hazardous Waste Disposal and Recycling Costs		
Per Vehicle Fee (including computer & electronic waste and latex paint)		*\$36.15 each
<i>This Estimate is based on holding five collection events. If more communities join the program than are expected, or communities drop from the program, the number of collections may be adjusted accordingly. Additional collection events will increase the administrative fee by approximately \$5,000 each. Any additional collections will be agreed upon by the County and the NO HAZ Advisory Board.</i>		
<i>*If the vendor deems a vehicle to have an excessive amount of waste, additional charges may apply.</i>		

EXHIBIT B - 2018 Estimated Costs

Municipality	Population (2010 census)	% of population	admin fee based on population	Cars	% of participation	admin fee based on # of cars	HHW disposal fee	Revenue from \$10 or \$15 charge	total amount for program
			\$24,096.00			\$24,096.00	\$36.15		
Addison*	6,351	1.69%	\$406.98	101	1.75%	\$422.52	\$3,651.15	\$1,010.00	\$3,470.64
Auburn Hills	21,412	5.69%	\$1,372.09	350	6.08%	\$1,464.17	\$12,652.50	\$0.00	\$15,488.76
Groveland*	5,476	1.46%	\$350.90	53	0.92%	\$221.72	\$1,915.95	\$530.00	\$1,958.57
Independence*	34,681	9.22%	\$2,222.38	638	11.08%	\$2,668.97	\$23,063.70	\$6,380.00	\$21,575.04
Lake Angelus	290	0.08%	\$18.58	33	0.57%	\$138.05	\$1,192.95	\$0.00	\$1,349.58
Oakland*	16,779	4.46%	\$1,075.21	479	8.32%	\$2,003.82	\$17,315.85	\$4,790.00	\$15,604.87
Orion	35,394	9.41%	\$2,268.07	1,116	19.38%	\$4,668.60	\$40,343.40	\$0.00	\$47,280.07
Oxford	20,526	5.46%	\$1,315.32	517	8.98%	\$2,162.78	\$18,689.55	\$0.00	\$22,167.65
Pontiac	59,515	15.83%	\$3,813.75	57	0.99%	\$238.45	\$2,060.55	\$0.00	\$6,112.75
Rochester	12,711	3.38%	\$814.53	336	5.83%	\$1,405.60	\$12,146.40	\$0.00	\$14,366.53
Rochester Hills*	70,995	18.88%	\$4,549.40	1,469	25.50%	\$6,145.32	\$53,104.35	\$14,690.00	\$49,109.06
Rose*	6,250	1.66%	\$400.50	19	0.33%	\$79.48	\$686.85	\$190.00	\$976.84
Springfield*	13,940	3.71%	\$893.28	165	2.86%	\$690.25	\$5,964.75	\$1,650.00	\$5,898.28
Waterford**	71,707	19.07%	\$4,595.02	427	7.41%	\$1,786.28	\$15,436.05	\$6,405.00	\$15,412.35
	376,027	100.00%	\$24,096.00	5,760	100.00%	\$24,096.00	\$208,224.00	\$35,645.00	\$220,771.00

* = Community charges participants \$10 each to participate in NO HAZ events.

** = Community charges participants \$15 each to participate in NO HAZ events.

(1.) **This is only an estimate.** The actual costs will be determined by which communities are members of NO HAZ in 2018, and the number of participants in the program from each of the member communities.

(2.) The cost per vehicle including electronic waste is \$36.15.

(3.) The total administration fee is \$48,192.00, which includes 5 collection events.

(4.) The number of participants is estimated using the 2017 number of participants and adding 9%.

(5.) One or two people from each community are required to work at each of the collection events. These costs are not factored into this estimate. Failure to provide a volunteer will result in charges as outlined in the Interlocal agreement. A representative from each community is also needed to attend meetings. These are held 1-3 times per year. Costs for this person are not factored into this estimate.

(6.) If additional communities join the program, additional collections may be necessary. This would be decided upon by the County and NO HAZ Advisory Board, and would result in additional administration costs of approximately \$5,000 per collection.

THE NORTH OAKLAND HOUSEHOLD HAZARDOUS WASTE CONSORTIUM

WHEREAS, the northern cities, villages, and townships in Oakland County are committed to protection of the natural environment and preventing toxic materials from entering our waterways and landfill resources; and

WHEREAS, the improper handling and disposal of toxic and poisonous household chemicals also poses a health risk to our citizens; and

WHEREAS, recognizing there is a need to provide regular and easily accessible household hazardous waste collection services to North Oakland County residents; and

WHEREAS, collection events for household hazardous waste have become widely accepted as the best way to provide citizens with a safe method of disposal of these toxic and poisonous household chemicals, and for the communities to realize the economies of scale, and

WHEREAS, Oakland County, through its Waste Resource Management Division, has joined these northern Oakland County communities in creating the North Oakland Household Hazardous Waste Consortium (NO HAZ), and

WHEREAS, the NO HAZ Consortium has developed a household hazardous waste collection program, and

WHEREAS, a NO HAZ Interlocal Agreement has been drafted to address necessary legal, liability, and responsibility issues for both the County and the participating communities, and identifies Oakland County's role in administering and managing the NO HAZ program, and,

WHEREAS, the NO HAZ Interlocal agreement establishes a NO HAZ advisory board to assist and advise Oakland County in the development of the NO HAZ program.

Now Therefore be it Resolved: That our community, _____, hereby approves the attached NO HAZ Interlocal Agreement and authorizes its signature, and

Be it Further Resolved: That we will not charge residents to participate in NO HAZ events in 2018, and

Be it Further Resolved: That we hereby appoint _____ as our official representative to the NO HAZ Advisory Board, to work with the Oakland County Waste Resource Management Division as needed to plan the NO HAZ program for 2018.

I hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the _____, at a regular meeting held on _____.



CITY OF PONTIAC

OFFICIAL MEMORANDUM

Executive Branch

TO: Honorable Mayor, Council President and City Council Members

FROM: Jane Bais-DiSessa, Deputy Mayor, at the request of
John V. Balint, City Engineer *JB*

DATE: December 8, 2017

RE: N. Saginaw Road Cost Sharing Agreement

The Department of Public Works, in cooperation with the Oakland County Water Resources Commissioner's Office, is working on the N. Saginaw Street Reconstruction project. As part of the project, the contractor will be replacing the water main along the stretch of road that is being replaced. The cost of the water main is to be paid for by WRC, with no City funds being used. The attached agreement is a way for WRC to transfer funds to the City to cover the cost of the water main and other accessory construction.

The "as bid" construction cost split is:

City: \$1,184,521

WRC: \$882,520

It is the recommendation of the Department of Public Works that the City accept this agreement with the Oakland County Water Resources Commissioner's Office. It has been reviewed and approved by the City Attorney.

WHEREAS, The City of Pontiac has the attached agreement along with the City attorney, and;

WHEREAS, the Department of Public Works feels that it is in the best interest of the City to enter into the subject agreement with the Oakland County Water Resources Commissioner's Office in order to receive money for the installation of the water main on Paddock Street Reconstruction Project in the sum of \$882,520. This dollar amount may increase or decrease based on actual construction costs.

NOW, THEREFORE,
BE IT RESOLVED, The Pontiac City Council authorized the Mayor or Deputy Mayor to enter into an agreement for cost sharing on the N. Saginaw Street Reconstruction project with the Oakland County Water Resources

2017 DEC -5 PM 12:47
RECEIVED

Commissioner's Office for \$882,520 for the installation water main on
N. Saginaw Street between Woodward and Montcalm.

JVB

Attachments

COST REIMBURSEMENT AGREEMENT

CONSTRUCTION

Saginaw Street
Between Woodward Avenue and Montcalm Street

City of Pontiac

Saginaw Street Road Reconstruction and Water Main Replacement Project
Contract No: _____

THIS AGREEMENT made and entered into this _____ day of _____ 2017, by and between the CITY OF PONTIAC, a Michigan municipal corporation, whose address is 47450 Woodward Avenue, Pontiac, Michigan 48342 (hereinafter referred to as "PONTIAC"), and the COUNTY OF OAKLAND, a Michigan constitutional and municipal corporation, whose address is 1200 North Telegraph Road, Michigan 48341, by and through its WATER RESOURCES COMMISSIONER, as the county agency acting pursuant to Act No. 342, of the Public Acts of Michigan, 1939, as amended (hereinafter referred to as "OCWRC"), provides as follows:

WHEREAS, the Michigan Department of Transportation (MDOT), PONTIAC and the OCWRC, in cooperation with each other, have undertaken a project, which will be managed by the MDOT, to replace the water main and appurtenances and thereafter reconstruct the road at Saginaw Street in the City of Pontiac, hereafter all together referred to as the "Project." The water main distribution system is owned by the County of Oakland, operated by the OCWRC, and within the jurisdiction of the City of Pontiac, and;

WHEREAS, the construction costs associated with the water main improvements will be initially funded by MDOT. MDOT will bill PONTIAC with identified "participating" and "non-participating" costs. PONTIAC will then bill the OCWRC its share of the "non-participating" costs related to the replacement of the water main and associated appurtenances. PONTIAC is responsible for all MDOT construction costs unless otherwise documented in this agreement; and,

WHEREAS, the estimated "non-participating" cost of the Project to OCWRC is Eight Hundred Eighty Two Thousand Five Hundred Twenty (\$882,520) Dollars; and,

NOW, THEREFORE, in consideration of the mutual covenants set forth herein and in conformity with all applicable laws, it is hereby agreed between PONTIAC and the OCWRC, as follows:

1. Under the direction of PONTIAC, OCWRC, through its consultant, shall forthwith undertake and complete its portion of the Project, as above described and shall perform or cause to be performed all preliminary engineering, construction engineering, and administration in reference thereto, which is identified in *Exhibit 1 – Memorandum and Scope of Services* by Johnson & Anderson, Inc.
2. The *Engineer's Opinion of Costs*, represented by the lowest qualified bidder from MDOT bid letting dated December 2, 2016 (Contract ID: 65451-131196) is approximately Eight Hundred Eighty Two Thousand Five Hundred Twenty (\$882,520) Dollars and attached as *Exhibit 2*.
3. The water main and appurtenances to be replaced, as indicated on the map attached as *Exhibit 3*, are located within the City of Pontiac but are owned by the County of Oakland and the costs associated with the water main replacement will be paid for initially by MDOT and ultimately reimbursed by OCWRC through sale of Bonds or other available water system funds.
4. MDOT will bill PONTIAC the identified "participating" and "non-participating" Project costs, which are identified in *Exhibit 2*. The shared overhead costs listed as Lump Sum unit costs will be prorated as 69.23% "participating" and 30.77% "non-participating." These items include the following:
 - a. Mobilization
 - b. Minor Traffic Devices
5. Once the project is awarded to MDOT, PONTIAC will immediately notify the OCWRC of the amount due in writing. It is understood that MDOT will bill PONTIAC monthly as the

work progresses. PONTIAC will extend the same MDOT billing terms and conditions for OCWRC's portion of the Project.

6. The costs associated with restoration of the road will be paid for by PONTIAC.
7. The percentages for "non-participating" costs between PONTIAC and OCWRC will be trued up at the end of the Project based on actual as-build quantities and related costs. Any extra excess funds that PONTIAC has on hand at the end of the Project's completion will be returned to OCWRC and any extra costs for OCWRC's "non-participating" share will be billed by PONTIAC and paid within 30 days by OCWRC after the review and approval of said costs by OCWRC's staff.
8. OCWRC will submit for the DEQ water main construction permit and be responsible for the related costs.
9. PONTIAC will ensure that Oakland County will be named as an additionally insured party by the contractor's insurance policy and that Oakland County is equitably protected by the terms and conditions with all related construction contracts and Surety Bonds for the project.
10. No permit, inspection or other fees will be required from OCWRC from PONTIAC or MDOT.
11. If bids exceed the *Engineer's Opinion of Cost* set forth in *Exhibit 2*, OCWRC will be responsible for additional costs related to the "non-participating" unit prices and other agreed upon shared costs only.
12. Any additional work required beyond the scope of this contract must be submitted to OCWRC in writing and approved by OCWRC's engineer before work is commenced.
13. OCWRC will provide its own inspection for the water main work.
14. OCWRC will be responsible for procurement of easements, if any, and related costs in association with water main work only.
15. No material testing fees will be allocated to OCWRC except for water main backfill.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and date first written above.

In the Presence of:

CITY OF PONTIAC, a Michigan municipal corporation

By: _____

Its: _____

OAKLAND COUNTY, a Michigan constitutional and municipal corporation

By: _____

Jim Nash, Water Resources Commissioner
County Agent

Exhibit 1

JA Johnson & Anderson

MEMORANDUM

To: Oakland County Water Resources Commissioner
Attn: Mr. Sid Lockhart, P.E.

From: Terry G. Broemer, P.E.

Date: September 30, 2014

Re: Scope (Exhibit C) and proposed fees for Saginaw Street Water Main Replacement in the City of Pontiac

Please find attached the proposed Scope of Services for the proposed Saginaw Street Water Main Replacement project in the City of Pontiac that is being administered by your Office. This scope covers design engineering services only. It is our understanding that the limits of this project are Saginaw Street from West Rundell to Wide Track (Woodward Avenue), approximately 3,720 lineal feet.

As you are aware, we have had several meetings with your staff to insure that we have accurately delineated the limits of this project. In addition we have had several discussions related to the proposed fee for these services. The fee outlined herein has been negotiated and agreed upon by representatives of the Oakland County Water Resources Commissioner's Office and Johnson & Anderson. The proposed fee for the Design Engineering Services related to Saginaw Street is \$100,000.

It is also our understanding that the City of Pontiac will be rebuilding Saginaw Street in conjunction with the proposed water main work. J&A shall provide design documents to the City of Pontiac consisting of base drawings depicting topographic features, utilities in locations provided by the respective entity and survey datum. All information shall be in state plane coordinate system. This information will be supplied to the City of Pontiac or their agent as directed by OCWRC. It is our understanding that Administrative and Construction Engineering Services for the Saginaw Street project (including water main) will be performed by the City of Pontiac.

Contract language included in Engineering Service Agreement #0041535 for City of Pontiac Water Supply Improvements between J&A and OCWRC that is not directly changed by these Scope of Services are to remain in effect. This includes all contract exhibits.

Attachments: Exhibit C-City of Pontiac Saginaw Street Water Supply Improvements

Cc: OCWRC-Mr. Craig Tiell, J&A-TEB, NJK, WJP, KKG

L:\17509\17630 OCWRC Saginaw Street Water Main\17630 Memo Sid Lockhart 9-30-14 Saginaw Street.doc

4494 Elizabeth Lake Road
Waterford, Michigan 48328
tel (248) 691-7800 fax (248) 691-2680

1060 W. Norton Avenue, Suite 7
Muskegon, Michigan 49441
tel (231) 780-3100 fax (231) 780-3115

3910 Lapeer Road
Port Huron, Michigan 48060
tel (810) 987-7820 fax (810) 987-7895

**City of Pontiac Saginaw Street Water Supply Improvements
Oakland County, Michigan**

Scope of Services

Prepared By: Johnson & Anderson, Inc.

Statement of Understanding:

Our understanding of the project is based on discussions with staff of the Oakland County Water Resources Commissioner, review of available documents and general knowledge of the system based on other projects in the City of Pontiac. The Scope of the project has been determined by the Water Resource Commissioner's (OCWRC) staff and consists of Saginaw Street from Wide Track (Woodward Avenue) to West Rundell, approximately 3,720 L.F. This water main segment may be installed or replaced by open cut, directional drilling or pipe bursting. The type of construction will be determined during the design phase based on the methodology deemed most appropriate for the segment of water main. The sizing of the proposed main has been done by others and is not based on analysis or design performed by J&A.

Administrative and Construction Engineering of the Saginaw Street project will be performed by the City of Pontiac.

Following is a scope of services to complete the preliminary and final design, acquire the requisite permits and issue plans and specifications for competitive bids.

1.0 SCOPE OF SERVICES:

The elements of work covered by this proposal include the following water main segment: **Saginaw Street from West Rundell to Wide Track (Woodward Avenue)**, approximately 3,720 lineal feet. The scope shall include topographic survey information to East Montcalm Street.

DESIGN ENGINEERING SERVICES

- 1.1 J&A shall meet with OCWRC (Owner) staff and representatives of the City of Pontiac, if applicable, to verify the scope of the project and to gather their input on the proposed water main replacements.
- 1.2 J&A shall gather topographic information along the defined route of the proposed water main. This information is proposed to be obtained by field survey.

- 1.3 Preliminary Plans shall include all physical features within the proposed road right-of-way as generally required for the installation of water main. In addition, J&A shall obtain information, for inclusion on the plans, related to existing underground utilities, property irons, monuments, county drains, and other features of note. J&A shall also investigate easement requirements (if applicable).
- 1.4 Once preliminary plans for the proposed water system replacement have been prepared, J&A shall meet with OCWRC staff to review all aspects of the design for the water main.
- 1.5 Final Plans. Using the information collected, J&A shall prepare plan sheets depicting the physical features and the proposed water main improvements prepared to industry standards. At this time the construction method for this segment, final route for the proposed watermain of water main and other details will be discussed.
- 1.6 J&A shall initiate interim design review meetings, participate in public hearings and/or other coordination activity with parties affected by the proposed construction. This includes but is not limited to OCWRC staff and representatives from the City of Pontiac.
- 1.7 J&A shall identify permits that may be required for the prosecution of this project to include: Michigan Department of Environmental Quality for water main replacements, Soil Erosion and Sedimentation Control (from the appropriate agency), City of Pontiac Road Right-of-way permit, Road Commission for Oakland County (if applicable), Michigan Department of Transportation (MDOT) and other permits as may be required. J&A shall prepare all applications for permits. The engineer fee for the Scope of Services does not include application fees for permits.
- 1.8 J&A shall assist the Owner in selecting a firm to perform subsurface soil investigations as deemed appropriate for this contract. This information shall be used in conjunction with the design and as an aid for contractors bidding the project. The geotechnical consultant will be a sub-consultant of J&A.
- 1.9 Based on the final drawings, J&A shall prepare opinions of probable costs for the proposed improvements and shall assist the Owner by supplying information for bonding and rates for connection fees as may be required.
- 1.10 Based on comments received in final review meetings, described above, J&A shall complete the plans and update estimates of probable costs. J&A shall complete specifications for bidding and shall assist in taking bids for construction. Upon receipt of bids, J&A shall prepare tabulations and make recommendations to the Owner for the construction of the proposed improvements.
- 1.11 J&A shall coordinate with the City of Pontiac in assembling Bidding and Contract Documents in the format requested by the City of Pontiac.

- 1.12 J&A will coordinate with the City of Pontiac's Road Engineer in the Administration and Construction of the water main work (only) within Saginaw Street.

The following services are not considered part of this proposal:

- a. Environmental Assessments;
- b. Application fees for permits;
- c. Procurement of Basements;
- d. Wetland Determinations
- e. Construction Engineering

LA17500\17630 OCWRC Saginaw Street Water Main\17630 Scope of Services Exhibit C.doc

N. Saginaw St. Bid Analysis

EXHIBIT 2

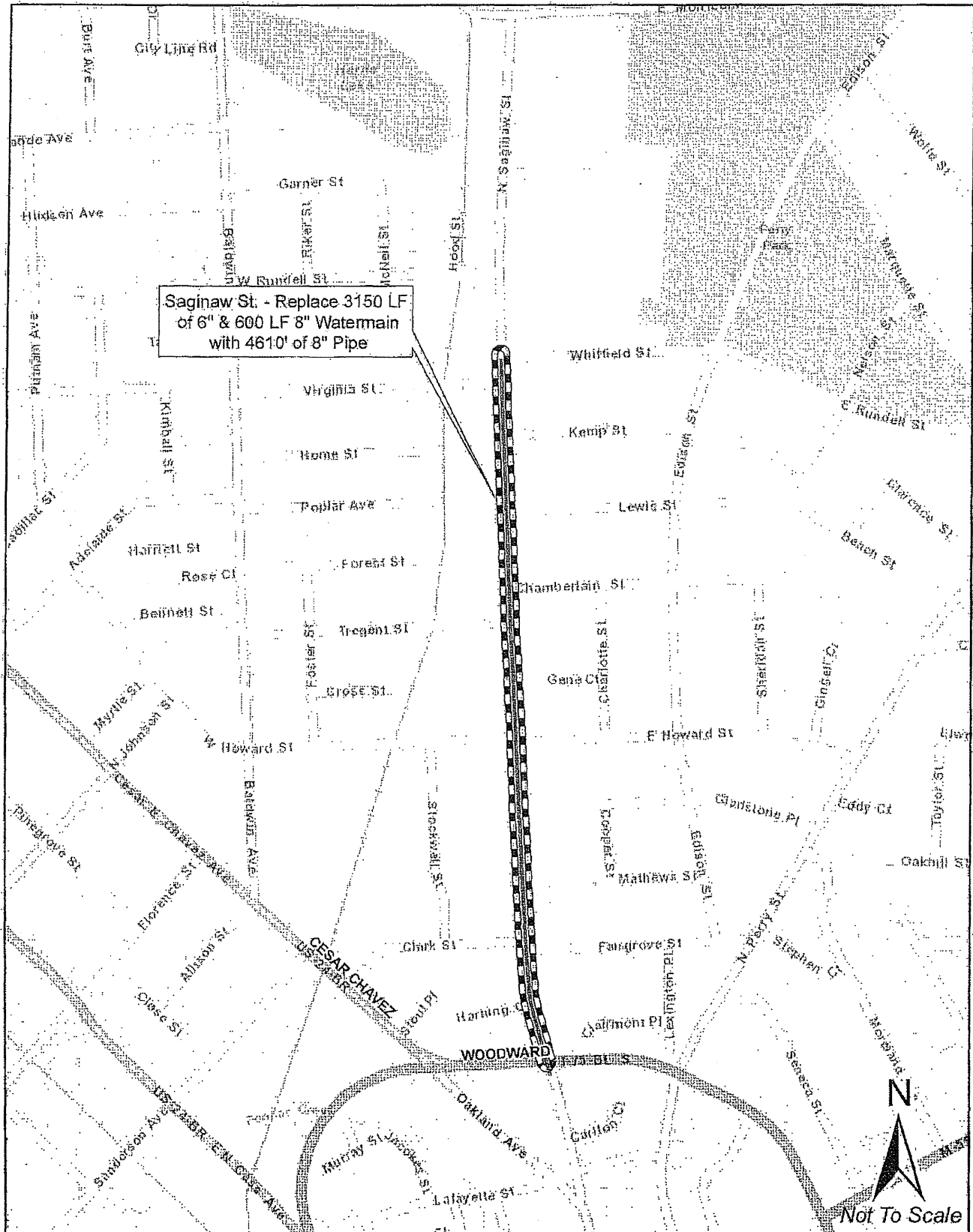
Road total (without traffic control or Mobilization)	\$1,568,217.37	69.23%
Water (Category 3) total (without traffic control or Mobilization)	\$697,141.29	30.77%
Road Mobilization	\$162,863.18	69.23%
Water Mobilization	\$72,399.82	30.77%
Road Traffic Control (items 0520 to 0610)	\$73,669.86	69.23%
Water Traffic Control (Items 0520 to 0610)	\$32,749.48	30.77%
Road total	\$1,804,750.41	
Water Total	\$802,290.59	
Project Total	\$2,607,041.00	
Estimated "non-participating" cost including 10% contingency	\$882,519.64	

N, Saginaw St. Bid Analysis

PayItemCode	Description	Units	Quantity	Est Price	Est Total	CategoryID	Bid Price	Bid Total
1500001	Mobilization; Max	LSUM	1	\$235,263.00	\$235,263.00	1	\$235,263.00	\$235,263.00
2020002	Tree, Rem, 19 inch to 36 inch	Ea	1	\$1,200.00	\$1,200.00	1	\$975.00	\$975.00
2020004	Tree, Rem, 6 inch to 18 inch	Ea	6	\$250.00	\$1,500.00	1	\$210.00	\$1,260.00
2030011	Dr Structure, Rem	Ea	21	\$300.00	\$6,300.00	1	\$325.00	\$6,825.00
2030015	Sewer, Rem, Less than 24 inch	Ft	181	\$10.00	\$1,810.00	1	\$11.00	\$1,991.00
2040020	Curb and Gutter, Rem	Ft	7309	\$10.00	\$73,090.00	1	\$2.00	\$14,618.00
2040035	Guardrail, Rem	Ft	64	\$1.50	\$96.00	1	\$4.00	\$256.00
2047011	Pav, Rem, Modified	Syd	20842	\$7.50	\$156,315.00	1	\$6.25	\$130,262.50
2047011	Sidewalk, Rem, Modified	Syd	970	\$10.00	\$9,700.00	1	\$4.50	\$4,365.00
2047051	Landscape, Rem, Special	LSUM	1	\$200.00	\$200.00	1	\$162.00	\$162.00
2057002	Machine Grading, Modified	Sta	49	\$1,000.00	\$49,000.00	1	\$2,895.00	\$141,855.00
3027011	Aggregate Base, 10 inch, Modified	Syd	19614	\$10.00	\$196,140.00	1	\$11.00	\$215,754.00
3027011	Aggregate Base, 8.5 inch, Modified	Syd	3164	\$8.50	\$26,894.00	1	\$9.50	\$30,058.00
4020866	Sewer, Cl III, 12 inch, Tr Det B	Ft	677	\$40.00	\$27,080.00	1	\$33.00	\$22,341.00
4030005	Dr Structure Cover, Adj, Case 1	Ea	91	\$600.00	\$54,600.00	1	\$575.00	\$52,325.00
4030010	Dr Structure Cover, Type B	Ea	1	\$500.00	\$500.00	1	\$482.00	\$482.00
4030050	Dr Structure Cover, Type K	Ea	14	\$600.00	\$8,400.00	1	\$612.00	\$8,568.00
4030200	Dr Structure, 24 inch dia	Ea	11	\$1,100.00	\$12,100.00	1	\$1,600.00	\$17,600.00
4030210	Dr Structure, 48 inch dia	Ea	3	\$1,750.00	\$5,250.00	1	\$2,500.00	\$6,300.00
4030230	Dr Structure, 72 inch dia	Ea	1	\$4,000.00	\$4,000.00	1	\$4,000.00	\$4,000.00
4030912	Dr Structure, Tap, 12 inch	Ea	8	\$350.00	\$2,800.00	1	\$185.00	\$1,480.00
4040073	Underdrain, Subgrade, 6 inch	Ft	9478	\$8.00	\$75,824.00	1	\$8.50	\$80,563.00
4047001	Trench Drain, 6 inch, Sidewalk	Ft	23	\$100.00	\$2,300.00	1	\$142.00	\$3,266.00
5010044	HMA, 3E1	Ton	4349	\$60.00	\$260,940.00	1	\$61.71	\$268,376.79
5010050	HMA, 4E1	Ton	2177	\$62.00	\$134,974.00	1	\$65.71	\$143,050.67
5010056	HMA, 5E1	Ton	1629	\$65.00	\$105,885.00	1	\$74.09	\$120,692.61
8010005	Driveway, Nonrein Conc, 6 inch	Syd	1016	\$35.00	\$35,560.00	1	\$31.50	\$32,004.00
8020038	Curb and Gutter, Conc, Det F4	Ft	8948	\$25.00	\$224,200.00	1	\$15.00	\$132,720.00
8020050	Driveway Opening, Conc, Det M	Ft	883	\$20.00	\$17,660.00	1	\$19.50	\$17,218.50
8030010	Detectable Warning Surface	Ft	192	\$40.00	\$7,680.00	1	\$32.00	\$6,144.00
8030036	Sidewalk Ramp, Conc, 6 inch	Sft	4981	\$6.50	\$32,376.50	1	\$6.00	\$29,886.00
8030044	Sidewalk, Conc, 4 inch	Sft	2937	\$5.00	\$14,685.00	1	\$3.40	\$9,985.80
8070000	Guardrail, Type B	Ft	113	\$15.00	\$1,695.00	1	\$18.50	\$2,090.50
8070040	Guardrail Approach Terminal, Type 1B	Ea	1	\$2,000.00	\$2,000.00	1	\$1,700.00	\$1,700.00
8070050	Guardrail Departing Terminal, Type B	Ea	1	\$700.00	\$700.00	1	\$650.00	\$650.00
8100371	Post, Steel, 3 lb	Ft	600	\$7.50	\$4,500.00	1	\$6.50	\$3,900.00
8100403	Sign, Type III, Rem	Ea	19	\$10.00	\$190.00	1	\$10.00	\$190.00
8100404	Sign, Type IIIA	Sft	159	\$13.50	\$2,146.50	1	\$16.00	\$2,544.00
8100405	Sign, Type IIIB	Sft	204	\$13.50	\$2,754.00	1	\$16.75	\$3,417.00
8110024	Pavt Mrg, Ovlv Cold Plastic, 6 inch, Crosswalk	Ft	1215	\$2.00	\$2,430.00	1	\$2.25	\$2,733.75
8110045	Pavt Mrg, Ovlv Cold Plastic, 24 inch, Stop Bar	Ft	273	\$9.00	\$2,457.00	1	\$11.50	\$3,139.50
8110049	Pavt Mrg, Ovlv Cold Plastic, Direction Arrow Sym, Bike	Ea	36	\$90.00	\$3,240.00	1	\$125.00	\$4,500.00
8110057	Pavt Mrg, Ovlv Cold Plastic, Bike, Large Sym	Ea	36	\$110.00	\$3,960.00	1	\$135.00	\$4,860.00
8110064	Pavt Mrg, Ovlv Cold Plastic, Lt Turn Only	Ea	3	\$220.00	\$660.00	1	\$150.00	\$450.00
8110079	Pavt Mrg, Ovlv Cold Plastic, Sharrow Symbol	Ea	6	\$150.00	\$900.00	1	\$195.00	\$1,170.00
8110231	Pavt Mrg, Waterborne, 4 inch, White	Ft	7842	\$0.10	\$784.20	1	\$0.25	\$1,960.50
8110232	Pavt Mrg, Waterborne, 4 inch, Yellow	Ft	8809	\$0.10	\$880.90	1	\$0.25	\$2,202.25
8120022	Barricade, Type III, High Intensity, Ulighted, Furn	Ea	20	\$70.00	\$1,400.00	1	\$80.00	\$1,600.00
8120023	Barricade, Type II, High Intensity, Ulighted, Oper	Ea	20	\$0.01	\$0.20	1	\$0.01	\$0.20
8120170	Minor Traf Devices	LSUM	1	\$15,000.00	\$15,000.00	1	\$38,288.46	\$38,288.46
8120250	Plastic Drum, High Intensity, Furn	Ea	250	\$20.00	\$5,000.00	1	\$20.00	\$5,000.00
8120251	Plastic Drum, High Intensity, Oper	Ea	250	\$0.50	\$125.00	1	\$0.01	\$2.50
8120350	Sign, Type B, Temp, Prismatic, Furn	Sft	506	\$4.00	\$2,024.00	1	\$4.00	\$2,024.00
8120351	Sign, Type B, Temp, Prismatic, Oper	Sft	506	\$0.25	\$126.50	1	\$0.01	\$5.06
8120352	Sign, Type B, Temp, Prismatic, Special, Furn	Sft	312	\$6.00	\$1,872.00	1	\$8.00	\$2,496.00
8120353	Sign, Type B, Temp, Prismatic, Special, Oper	Sft	312	\$0.50	\$156.00	1	\$0.01	\$3.12
8120370	Traf Regulator Control	LSUM	1	\$5,000.00	\$5,000.00	1	\$56,000.00	\$56,000.00
8167011	Slope Restoration, Modified	Syd	5475	\$4.00	\$21,900.00	1	\$5.00	\$27,375.00
2040020	Curb and Gutter, Rem	Ft	20	\$10.00	\$200.00	3	\$2.00	\$40.00
2040050	Pav, Rem	Syd	607	\$7.50	\$4,552.50	3	\$8.75	\$5,309.25
2040090	Exploratory Investigation, Vertical	Ft	50	\$20.00	\$1,000.00	3	\$30.00	\$1,500.00
3027011	Aggregate Base, 10 inch, Modified	Syd	607	\$10.00	\$6,070.00	3	\$11.00	\$6,677.00
4030005	Dr Structure Cover, Type C	Ea	27	\$500.00	\$13,500.00	3	\$453.00	\$12,231.00
5010044	HMA, 3E1	Ton	126	\$60.00	\$7,560.00	3	\$61.71	\$7,773.46
5010050	HMA, 4E1	Ton	64	\$62.00	\$3,968.00	3	\$65.71	\$4,205.44
5010056	HMA, 5E1	Ton	46	\$65.00	\$2,990.00	3	\$74.09	\$3,403.14
8020038	Conc Pavt, Misc, Nonrein, 24 inch	Syd	36	\$75.00	\$2,700.00	3	\$63.00	\$2,294.00
8020038	Curb and Gutter, Conc, Det F4	Ft	20	\$25.00	\$500.00	3	\$15.00	\$300.00
8230052	Gate Valve, 8 inch	Ea	27	\$1,750.00	\$47,250.00	3	\$1,450.00	\$39,150.00
8230076	Gate Well, Rem	Ea	5	\$750.00	\$3,750.00	3	\$495.00	\$2,475.00
8230091	Hydrant, Rem	Ea	10	\$447.01	\$4,470.10	3	\$324.00	\$3,240.00
8230121	Water Main, 6 inch, Cut and Plug	Ea	2	\$1,000.00	\$2,000.00	3	\$1,300.00	\$2,600.00
8230122	Water Main, 8 inch, Cut and Plug	Ea	3	\$1,000.00	\$3,000.00	3	\$1,300.00	\$3,900.00
8230260	Gate Well, 60 inch dia	Ea	27	\$2,500.00	\$67,500.00	3	\$3,500.00	\$94,500.00
8237001	Water Main, DI, CL 54, 8 inch	Ft	4355	\$75.00	\$326,625.00	3	\$68.00	\$294,560.00
8237001	Water Main, Abandon, Modified	Ft	4406	\$15.00	\$66,090.00	3	\$14.50	\$63,827.00
8237001	Water Serv, 3 inch, Long	Ft	895	\$40.00	\$35,800.00	3	\$41.00	\$36,695.00
8237001	Water Serv, 1 inch, short	Ft	341	\$30.00	\$10,230.00	3	\$38.00	\$13,008.00
8237001	Water Main, DI, CL 54, 8 inch	Ft	85	\$65.00	\$5,525.00	3	\$74.00	\$6,290.00
8237001	Water Main, DI, CL 54, 8 inch, Directional Bore	Ft	1449	\$120.00	\$173,880.00	3	\$176.00	\$254,224.00
8237050	Hydrant Assembly	Ea	10	\$5,000.00	\$50,000.00	3	\$4,800.00	\$48,000.00
8237050	Connection to Existing WM (4 inch to 12 inch)	Ea	16	\$2,500.00	\$40,000.00	3	\$2,712.00	\$43,392.00

[illegible][illegible]

Saginaw Street Water Main Replacement Project



ARTICLE IV. STOPPING, STANDING AND PARKING

DIVISION 1. GENERALLY

114-56 Stopping, standing or parking prohibited.

- (a) No person shall stop, stand or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device in any of the following places:
- (1) On a sidewalk;
 - (2) In front of a public or private driveway;
 - (3) Within an intersection of two or more public or private streets;
 - (4) Within 15 feet of a fire hydrant, measured from either side of the hydrant;
 - (5) On or over a crosswalk;
 - (6) Within 20 feet of a crosswalk at an intersection;
 - (7) Within 30 feet upon the approach to any flashing beacon, stop sign, or traffic control signal located at the side of a roadway;
 - (8) Within 50 feet of the nearest rail of a railroad crossing;
 - (9) Within 50 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of the entrance (when properly sign-posted);
 - (10) Alongside or opposite any street excavation or obstruction when such stopping, standing, or parking would obstruct traffic;
 - (11) On the roadway side of any vehicle stopped or parked at the edge of curb of a street, or double or triple parking;
 - (12) Upon any bridge, bridge approach, or other elevated structure upon a highway or within a highway tunnel;
 - (13) At any place where official signs prohibit stopping;

- (14) In a parking space clearly identified by an official sign as being reserved for the use by handicappers which is on public property or private property available for public use, unless the person is a handicapper as described in MCLA 257.19(a), or unless the person is parking the vehicle for the benefit of a handicapper. A certificate of identification issued under MCLA 257.657(e) to a handicapper shall be displayed on the lower left corner of the front windshield, or a special registration plate issued under MCLA 257.803(d) to a handicapper shall be displayed on the vehicle;
- (15) In a clearly identified access aisle or access lane immediately adjacent to a space designated for parking by persons with disabilities;
- (16) On a street or other area open to the parking of other vehicles that results in the vehicle interfering with the use of a curb-cut ramp by persons with disabilities;
- (17) Within 200 feet of an accident where police officers or other emergency or medical personnel are in attendance or such police or emergency vehicles;
- (18) In any place or in any manner so as to block immediate ingress or egress from any emergency exit or exits, marked as such, or buildings;
- (19) On a street or roadway in such a manner as to obstruct the delivery or pick up of mail by a carrier of the U.S. Postal Service;
- (20) In a place or in a manner which blocks the use of an alley;
- (21) In violation of an official sign restricting the period of time for or manner of parking;
- (22) In a space controlled or regulated by a meter on a public highway or in a publicly owned parking area or structure, if the allowable time for parking indicated on the meter has expired.
- (b) No person shall move a vehicle not owned by such person into any such prohibited area or away from a curb to a distance which is unlawful.
- (c) No person shall park a vehicle on that portion of the highway located between the property lot lines and the curb or curblane, except where an indented curb line has been constructed in accordance with specifications of the City Engineer.

(d) No person shall drive, lead, or back any vehicle on or along any sidewalk in any public street or public place except in such points designated for such purpose by the lowering of the curb.

(e) No vehicle shall be permitted to park in front of the entrance of any theater, church, office building, public dance hall, club, bar, driveway, public or private, or building so as to interfere with vehicles dropping off or picking up persons.

(f) No person shall cause or permit any vehicle to park or stand continuously for 48 hours on any City street or thoroughfare, or cause or permit any vehicle to be abandoned thereon. Continuous standing for 48 hours may be deemed prima facie evidence of abandonment.

(g) In any proceeding for violating the parking provisions of this article or any rule or regulation adopted pursuant to the provisions of this article, the registration of ownership of the plate displayed on such motor vehicle shall constitute in evidence a prima facie presumption that the owner of such motor vehicle was the person who parked or placed such motor vehicle at the point where such violation occurred. In case two or more persons are the registered owners, either may be presumed to be the person who parked or placed such motor vehicle as aforesaid. In case such motor vehicle is or has been rented or leased from a commercial leasing establishment or service, it shall be presumed, as prima facie evidence, that the person whose name appears as lessee on the lease agreement was the person who parked or placed such motor vehicle at the point where such violation occurred. In case two or more persons signed the lease agreement, as lessees, either may be presumed to be the person who parked or placed the motor vehicle as aforesaid.

(h) It is specified that each period, as determined by the particular location in which the motor vehicle continues to be parked illegally, shall constitute a separate violation. One citation or notice of violation may be issued for each such period of time in which such motor vehicle continues to be illegally parked. If such a vehicle has received more than five parking citations or notices of violation and continues to be in violation of the parking regulations, such a vehicle may be towed, as provided in this article.

(Code 1985, § 26-71; Ord. No. 2322, § 1, 11-1-14)

114-57 All-night parking prohibited.

(a) No person shall park a vehicle nor allow a vehicle to remain parked on any of the following streets between the hours of 2:00 a.m. and 6:00 a.m. on any day, except physicians on emergency calls and other emergency conditions:

- (1) Saginaw Street, except between Water Street and Lafayette Street;

- (2) Huron Street;
- (3) Auburn Avenue;
- (4) Baldwin Avenue;
- (5) East Boulevard;
- (6) Oakland Avenue;
- (7) South Boulevard;
- (8) Perry Street;
- (9) State Avenue;
- (10) Elizabeth Lake Road;
- (11) Montcalm Street;
- (12) Orchard Lake Avenue; and
- (13) Lafayette Street between Saginaw Street and Perry Street.

(b) No person shall park a vehicle nor allow a vehicle to remain parked on any of the following streets between the hours of 3:30 a.m. and 6:00 a.m. on any day, except physicians on emergency calls and other emergency conditions:

- (1) Saginaw Street between Water Street and Lafayette Street.

(Code 1985, § 26-73; Ord. No. 2284, § 1, 5-10-13)

114-58 Illegal parking.

No person shall stand or park a vehicle upon any roadway for the principal purpose of:

- (1) Displaying it for sale.
- (2) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

(Code 1985, § 26-80)

114-59 Use of vehicle for advertising.

No person shall operate or park on any street without permission of chief of police any vehicle for the primary purposes of advertising.

(Code 1985, § 26-81)

114-60 Parking prohibited during certain hours.

When signs are erected in each block giving notice thereof, no person shall park a vehicle between hours specified on signs of any day except Sundays and public holidays within the district or upon any of the streets designated by the chief of police.

(Code 1985, § 26-75)

114-61 Parking prohibited at all times.

When signs are erected giving notice thereof, no person shall park a vehicle at any time upon any of the streets designated by the chief of police.

(Code 1985, § 26-74)

114-62 Parking prohibited in certain places.

(a) No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than ten feet of the width of the roadway for normal free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals or a police officer.

(b) No operator shall park in a public alley. A commercial vehicle may load in a public alley, but shall not obstruct other vehicles from passing.

(c) No person shall park a vehicle within an alley in such a manner or under such conditions as to leave available less than ten feet of the width of the alley for the free movement of vehicular traffic.

(Code 1985, § 26-72)

114-63 Parking adjacent to school.

When signs are erected indicating no parking upon that side of the street adjacent to any school property, no person shall park a vehicle in any such designated place.

(Code 1985, § 26-70)

114-64 Hazardous or congested places; parking.

When signs are erected upon approach to hazardous or congested places no person shall stop, stand, or park a vehicle in any such designated place.

(Code 1985, § 26-69)

114-65 Parking on public property; removal.

The parking of automobiles on property owned by the city which has been posted against such parking is prohibited. Where notices have been posted, no person shall park a motor vehicle. Enforcement of this section shall be by complaint against the driver or owner of the motor vehicle, signed by any police officer, or by impounding the vehicle. The chief of police is authorized to cause "No Parking" signs to be erected on any city-owned lands where such restrictions are necessary.

(Code 1985, § 26-68)

114-66 Standing for loading only.

(a) No person shall stop, stand or park a vehicle for any purpose or period of time other than for the expeditious loading or unloading of passengers in any place marked as a passenger zone during hours when the regulations applicable to such a passenger zone are effective, and then only for a period not to exceed three minutes.

(b) No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious unloading and delivery or pickup and loading of materials in any place marked as a loading zone during hours when the provisions applicable to loading zones are in effect. Where facilities are available for deliveries from the alley such loading zones shall not be established.

(Code 1985, § 26-77)

114-67 Bus and taxicab stands.

(a) The driver of a bus or taxicab shall not stand or park upon any street in any business district at any place other than at a bus stop or taxicab stand respectively, except that this section shall not prevent the driver of any such vehicle from temporarily stopping in accordance with other stopping or parking regulations at any place for the purpose of and while actually engaged in loading or unloading passengers.

(b) No person shall stop, stand or park a vehicle other than a bus in a bus stop, a jitney in a jitney stand or a taxicab in a taxicab stand when any such stop or stand has been officially designated and appropriately signed, except that the driver of a passenger vehicle may temporarily stop therein for the purpose of and while actually engaged in loading or unloading passengers when such stopping does not interfere with any bus, jitney or taxicab waiting to enter or about to enter such zone.

(Code 1985, § 26-78)

114-68 Standing or parking close to curb.

(a) No person shall stand or park a vehicle in a roadway other than parallel with the edge of the roadway, headed in the direction of traffic and with the side wheels of the vehicle within 12 inches of the curb, except as provided in the following subsections.

(b) Upon those streets which have been marked or signed for angle parking, vehicle shall be parked at the angle to the curb indicated by such mark or signs.

(c) In places where and at hours when stopping for the loading or unloading of merchandise or materials is permitted, vehicles used for the transportation of merchandise or materials may back into the curb to take on or discharge loads when the owner of such vehicle holds a permit granting him to take on or discharge loads when the owner of such vehicle holds a permit granting him such privilege, and such permit is either in the possession of the driver or on the vehicle at the time such vehicle is backed against the curb to take on or discharge a load. No owner or driver shall violate any of the special terms or conditions of any such special permit.

(d) In all places where a vehicle is parked on the public highway the brake shall be securely set when any such vehicle is parked.

(Code 1985, § 26-79)

114-69 Parking on narrow streets.

When signs prohibiting parking are erected on narrow streets no person shall park a vehicle in any such designated place.

(Code 1985, § 26-66)

114-70 Parking in residential front yard prohibited.

(a) Off-street parking of any vehicle shall not be permitted within the front yard of a residentially zoned or occupied property, except parking of a motor vehicle within an improved driveway as an accessory use to a residential dwelling occupying the same lot of record. There shall be only one driveway per residential dwelling.

(b) For purposes of this section, the following definitions apply:

(1) "Front yard" is that portion of a property between the dwelling and the front lot line as bounded by the side lot lines of the adjoining street; and within 25 feet of any side lot line that abuts a street right-of-way upon which the adjoining property is an interior lot.

(2) "Driveway" is an improved contiguous area, or a contiguous area of long-standing usage otherwise conforming to the balance of this definition, aligned perpendicular to the related right-of-way, adjoining an improved drive approach, constructed pursuant to sections 102-106—102-115 of this Code, and shall not exceed in width the lesser of 20 feet or the width, measured at the property lot line, of the related driveway approach. However, where necessary to facilitate safe egress or ingress movements along heavily traveled streets and in the interest of public safety and pursuant to section 102-93 of this Code, the city engineer may approve a different configuration.

(c) In any proceeding for enforcement of this section, the registration plate displayed on the vehicle shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed the vehicle contrary to the provisions of this section.

(d) This section shall not apply during the hours of an official snow emergency as declared by the city.

(e) This offense is designated as a municipal civil infraction.

(Ord. No. 2076, § 1, 2-19-98)

114-71 For sale or trade advertising signs prohibited; exceptions; penalty.

(a) *For sale or for lease.* No person, corporation, partnership, or other legal business entity shall stand or park a motor vehicle on public or private property in the City of Pontiac for the purpose of advertising same "for sale" or "for trade."

(1) An outwardly visible sign containing a phone number in or on a parked motor vehicle constitutes a presumption that the sign was for the purpose of offering the vehicle for sale or trade.

(2) Proof that the vehicle described in the complaint was parked in violation of this section, together with proof that the defendant named in the complaint was at the time of the parking the registered owner of the vehicle, constitutes a presumption that the registered owner is responsible for the violation.

(b) *Exceptions.* the owner of motor vehicle may place a "for sale" or "for trade" sign within the vehicle provided:

(1) The vehicle is located on the owner's residential property premises only.

(2) This section shall not apply to properly licensed auto dealerships and properly licensed used car lots.

(c) *Signs painted or attached to motor vehicles.* Signs painted or attached to motor vehicles which are licensed and normally used upon the streets and highways for transportation of persons, goods or equipment are allowed, but no person shall cause or allow any vehicle to travel upon or to be parked on a public street or highway or on private property for the principal purpose of advertising any business and/or product whatsoever by means of a sign or signs painted upon, supported by or attached to the vehicle.

(d) *Penalty.* Violation of this section shall be deemed to constitute a municipal civil infraction, punishable by a fine of not less than \$100.00 or more than \$500.00, plus any costs, damages, expenses, and other sanctions. This section is further subject to the repeat offender provision of the Pontiac Municipal Code 86-501(2).

Further, each day on which any violation of this section continues constitutes a separate offense and shall be subject to penalties or sanctions as a separate offense. In addition to any other remedies available at law, the city may bring in the local district court an injunction or other process against a person or company to restrain, prevent, or abate any violation of this section.

(Ord. No. 2105, § 2, 2-24-00)

114-72 Limited parking areas.

The City Council may by resolution, upon recommendation of the Mayor, designate areas along certain streets in the City that border commercial uses as areas of limited parking. Such areas may limit parking from 30 minutes to three hours; provided, that adequate signage designates the restricted parking area. Vehicles in violation of the parking restriction may be ticketed or towed or both upon the direction of the Chief of Police.

(Ord. No. 2284, § 1, 5-10-13)

114-73 Special Event Parking.

- (a) The Mayor or their designee may designate certain events as Special Events, which shall include the date and duration thereof. Designated Special Events shall be posted at City Hall at a location accessible to the general public.
- (b) During such Special Events, the following conditions apply:
 - (1) Property owners are not required to obtain a permit to allow for parking upon their property at a fee to be determined by the property owner.
 - (2) During such Special Events, a residential property owner may allow parking within a front yard, notwithstanding the prohibition set forth in §114-70.
 - (3) City Hall parking lots shall be available to the public at no cost.
- (c) Nothing herein shall permit parking upon the public right of way.
- (d) Nothing herein shall impair the Mayor or their designee(s) from making a determination that specific parked vehicles represent a threat to the health, safety, or welfare of the public. Such vehicles shall be removed by means of towing the vehicle to the automobile and vehicle pound. Such removal shall be at the risk of the vehicle owner.

114-74—114-80 Reserved.

DIVISION 2. CITY PARKING FACILITIES

114-81 Definitions.

As used in this Division:

Attendant-operated parking lot means any municipal parking lot not metered, wherein the parking fee is collected by a duly authorized person in attendance.

Gate-operated parking lot means any municipal parking lot, the entrance of which is controlled by a gate or similar device activated by coin, card, key or other means.

Metered parking lot means any municipal parking lot upon which parking meters are installed and in operation.

Municipal parking lot means any area set aside and operated by the city for the primary purpose of public use for the parking of vehicles.

Operator means and includes every individual who operates a vehicle as the owner thereof, or is the agent, employee or permittee of the owner, or is in actual physical control of a vehicle.

Park or parking means the standing of a vehicle, whether occupied or not, upon any public street or city-controlled property otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

Parking facilities means and includes attendant-operated parking lot, gate-operated parking lot, metered parking lot, municipal parking lot, parking meter and parking space as defined in this section.

Parking meter means and includes any mechanical device or meter placed or erected for the regulation of parking by authority of this article.

Parking space means any city-controlled space which is duly designated for the parking of motor vehicles by posted signs, painted lines or otherwise.

Police department means the Oakland County Sheriff or law enforcement agency operating in the City.

Vehicle means any device in, upon or by which any person or property is or may be transported upon a street, except a device which is operated upon rails or tracks.

(Code 1985, § 26-140)

114-82 Parking facilities; determination; changes.

(a) Whenever because of traffic congestion or other cause, the public safety is imperiled, the public convenience can be better served and traffic regulations can be more adequately enforced, with the assistance secured from the establishment, elimination or other substantial change in parking facilities and their regulation and control anywhere within the city, such change shall be effected by a resolution of the council.

(b) Whenever it comes to the attention of the mayor that conditions on or along any particular street or streets, or on, in, or along any public drive or municipal parking lot appear to require regulation of traffic by a substantial change in parking facilities, he shall make or cause to be made through the police department, a survey of such situation to determine the need for such regulation. If he finds a need therefor, he shall make a determination of such fact and report to the council accordingly.

(c) Minor changes in regulations and control of parking shall be made by the mayor or his designee. Such minor charges shall include but not be limited to the posting of signs, designating hours of operation and time limits.

(Code 1985, § 26-142)

114-83 Reserved.

Editor's note—Ord. No. 2234, § 4, adopted February 29, 2012, repealed § 114-83, which pertained to parking meter signals and derived from § 26-143 of the Code of 1985.

114-84 Parking spaces; designation.

In municipal parking lots, the individual parking spaces shall be designated by lines painted on the surface of the lot and at the curbing where each space is located. Similar markings shall be made on the curb for parking on the streets of the city. No person shall park any vehicle in such a way that the vehicle is not entirely within the limits of the space so marked.

(Code 1985, § 26-144)

114-85 Parking meter operation; overtime; attendant of gate-operated lots.

In the case of attendant-operated and gate-operated parking lots, the driver of a vehicle entering such lot shall comply with the pertinent parts of this article, as well as all posted regulations, rate charges and hours as set forth by the council. Failure to do shall constitute a violation of this article.

(Code 1985, § 26-145; Ord. No. 2234, § 4, 2-29-12)

114-86 Reserved.

Editor's note—Ord. No. 2234, § 1, adopted February 29, 2012, repealed § 114-86, which pertained to parking facility exemptions and derived from § 26-146 of the Code of 1985.

114-87 Reserved.

Editor's note—Ord. No. 2234, § 1, adopted February 29, 2012, repealed § 114-87, which pertained to parking facility violations and enforcement and derived from § 26-147 of the Code of 1985.

114-88 Overtime parking; impounding; release; notices.

(a) Whenever any vehicle is found parked in any parking meter space overtime and beyond the period of legal parking time established for such space, or is found parked therein during any period when parking is prohibited, or is found parked in violation of any of the provisions of this article, such vehicle may be removed by, or under the direction of, any person authorized to enforce this article, by means of towing the vehicle to the automobile and vehicle pound. Such removal shall be at the risk of the owner.

(b) Before the owner or person in charge of such vehicle shall be permitted to remove the vehicle from such pound, he shall furnish evidence of his identity and ownership or right to possession to the police department. In the event the vehicle is impounded, the owner or person in charge of the vehicle shall be liable for towing and storage fees.

(c) Such enforcing officer may, in lieu of towing such vehicle to the pound, serve upon the owner or operator of such vehicle, or attach or fasten to such vehicle, a parking violation notice. Such parking violation notice shall state the date and location where such violation occurred, the time of violation, the kind of vehicle, state license number of such vehicle, and any other facts relevant to such violation. A copy of such notice may be attached or fastened to the vehicle in a conspicuous place, which will notify such owner or operator that such vehicle was parked in violation of this article, and instructing such owner or operator that such violation can be fully settled and satisfied by the payment of such sum as set by resolution of the council, to the Parking Violations Bureau, City of Pontiac, Michigan, within the time limit specified on such notice attached to the vehicle.

(Code 1985, § 26-148)

114-89 Notices of violation; summons.

(a) Whenever any motor vehicle is found parked or stopped in violation of any of the provisions of this division or any rules and regulations issued in connection therewith, or in violation of state law, a police officer or other duly authorized personnel finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a parking ticket or notice of violation. The City, or any other entity designated to enforce parking within the City, may delegate to other persons the power to issue and affix such tickets or notices of violations, but no other power normally exercised by a police officer or public safety officer in the exercise of his normal duties.

(b) The issuance of a ticket or notice of violation by a police officer, public safety officer, or other authorized person shall be deemed an allegation of a parking violation. Such violation notice, if given, shall state the date and location on the street of the meter adjacent to the space where such violation occurred, the time of

violation, the kind of vehicle, the State license number of such vehicle, and any other facts relevant to such violation. A copy of such notice shall be attached or fastened to the vehicle in a conspicuous place. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau. It shall also indicate the address of the Bureau, the hours during which the Bureau is open, the amount of the penalty scheduled for the offense of the person to whom the ticket was issued, the manner in which the ticket may be contested, and advise that a civil infraction citation will be sought if such person fails to respond within the prescribed time.

(Code 1985, § 26-149; Ord. No. 2322, § 1, 11-1-14)

114-90 Disposition of fines.

The amount of fines and costs to be collected by the parking violations bureau for violations of this article shall be governed by the provisions of the division of parking meters and lots of this chapter.

(Code 1985, § 26-150)

114-91—114-100 Reserved.

DIVISION 3. PARKING METERS AND LOTS

114-101 Parking time limited; meters.

- (a) When signs, other than parking meter signs, are erected in each block giving notice thereof, no person shall park a vehicle for longer than specified on signs at any time between the hours of 8:00 a.m. to 12:00 a.m. (midnight) of any day except Sundays and public holidays within the district or upon any of the streets designated by the Chief of Police or valid City parking contractor in accordance with the contract with the City.
- (b) Whenever the Council shall designate a metered parking district, the parking of vehicles in such designated district shall be governed by and in accordance with the provisions of division 2 of this article and by any resolution of the City Council pertaining thereto. In areas where the City of Pontiac has a valid City parking contractor, said contract takes precedence.
- (c) In the event that any classification described in section 114-56 shall conflict with any designated metered parking district, then the regulation of the parking of vehicles in such districts shall be governed by and in accordance with the provisions of division 2 of this article and any resolution adopted by the Council pursuant thereto. In areas where the City of Pontiac has a valid City parking contractor, said contract takes precedence.

(Code 1985, § 26-76; Ord. No. 2297, § 1, 7-7-13)

114-102 Definitions.

As used in this Division:

Citation means any paper or electronic ticket issued by any member of the Oakland County Sheriff Office or other law enforcement agency and may be used interchangeably with ticket.

Civil infraction means a written complaint or notice prepared by an authorized City official directing a person to appear in court regarding the occurrence or existence of a municipal civil infraction violation by the person cited.

Contractor or parking contractor means an entity which holds a valid parking contract with the City of Pontiac.

Municipal parking lot means and includes any public municipal parking lot operated by the City upon which are installed parking meters.

Notice of violation means any written allegation of a parking violation by any duly authorized individual or law enforcement officer.

Operator means and includes every individual who operates a vehicle as the owner thereof, or as the agent, employee, or permittee of the owner, or is in actual physical control of a vehicle.

Park or parking means the standing of a vehicle, whether occupied or not, upon a street otherwise than temporarily for the purpose of, and while actually engaged in, receiving or discharging passengers or loading or unloading merchandise or in obedience to traffic regulations, signs, or signals or an involuntary stopping of the vehicle by reason of causes beyond the control of the operator of the vehicle.

Parking meter means and includes any mechanical or digital device or meter placed or erected for the regulation of parking by authority of this article. Each parking meter installed shall indicate by proper legend the legal parking time established by the City and when operated shall at all times indicate the balance of legal parking time, and at the expiration of such period shall indicate illegal or overtime parking.

Parking meter space means any space within a parking meter zone, adjacent to a parking meter, which is duly designated for the parking of a single vehicle by lines painted or otherwise durably marked on the curb or on the surface of the street adjacent to or adjoining the parking meters.

Parking meter zone means and includes any street or part thereof in the central business area upon which parking meters are to be installed and placed in operation.

Police Department means the Oakland County Sheriff or law enforcement agency operating in the City.

Ticket means the same as citation and may be used interchangeably.

Treasurer means the City Treasurer in the City.

Vehicle means any device in, upon or by which any person or property is or may be transported upon a street, except a device which is operated upon rails or tracks.

(Code 1985, § 26-166; Ord. No. 2254, § 1, 4-17-12; Ord. No. 2297, § 1, 7-7-13; Ord. No. 2322, § 1, 11-1-14)

114-103 Installation of parking meters; determination.

(a) Whenever because of traffic congestion or other cause the public safety is imperiled, the public convenience can be better served and traffic regulations can be more adequately enforced with the assistance secured from the installation and maintenance of parking meters, such parking meters shall be installed under, and in accordance with, the provisions of this article.

(b) Whenever it comes to the attention of the Mayor that conditions on or along any particular street or streets or on, in, or along any public drive are not governed as to parking by the provisions of division 1 of this article and appear to require the regulation of traffic by parking meters, he shall make or cause to be made through the Police Department a survey of such situation, and after consultation with valid City parking contractor in affected area, to determine the need for such regulations. If he finds a need therefor, he shall make a determination of such fact and shall cause parking meters to be installed in the streets where needed in the districts hereinafter defined. The Mayor, before making such installation, shall obtain the approval of the Council by resolution and an appropriate amendment shall be made to the parking contract.

(Code 1985, § 26-167; Ord. No. 2297, § 1, 7-7-13)

114-104 Parking charges.

(a) After consultation with the City and the 50th District Court, the contracted operator of the parking system shall determine the pricing for parking, including pricing for all meters, notices of violations, tickets, citations, and parking passes. Such pricing shall be competitive with that charged by communities in the same geographic territory.

(b) Once such prices are established, they shall be posted in a location accessible to the public and a paper copy shall be made available at the Parking Violations Bureau.

(Ord. No. 2284, § 1, 5-10-13; Ord. No. 2322, § 1, 11-1-14)

114-105 Meter spaces; specifications.

(a) In determining the number of parking spaces that shall be installed on the streets or parking lots in the City, a minimum of 23 feet in length shall be allowed for each space for parallel parking, unless otherwise defined in section 114-72.

(b) On the public parking lots, the individual parking spaces shall be designated by lines painted on the surface of the lot and at the curbing where each meter is located. Similar markings shall be made on the curb for parking on the streets of the city.

(c) No person shall park any vehicle in such a way that the vehicle is not entirely within the limits of the space so marked.

(Code 1985, § 26-169; Ord. No. 2297, § 1, 7-7-13)

114-106 Operation of parking meters.

(a) Except in a period of emergency determined by an officer of the Fire or Police Department, or in compliance with the directions of a law enforcement officer, when any vehicle is parked in any space alongside or next to which a parking meter is located on any street or municipal parking lot, the operator of such vehicle shall, upon entering the parking meter space, immediately deposit or cause to be deposited in the meter such proper payment as is required for such parking meter and as is designated by proper directions on the meter. Failure to deposit such proper payment shall constitute a violation of this article.

(b) Upon the deposit of such payment the parking space may be lawfully occupied by such vehicle during the period of time which has been prescribed for the zone in which the parking space is located. Any person, placing a vehicle in a parking meter space adjacent to a meter which indicates that unused time has been left in the meter by the previous occupant of the space, shall not be required to deposit a payment so long as his occupancy of the space does not exceed the indicated unused parking time.

(c) If the vehicle remains parked in any such parking space beyond the parking time limit set for such parking space, and if the meter indicates that such time has elapsed and that such parking is illegal, then such vehicle

shall be considered as parking overtime and beyond the period of legal parking time. Such overtime parking shall be deemed a violation of this article.

(Ord. No. 2297, § 1, 7-7-13)

114-107 Parking time limits.

Parking a vehicle in a designated space in a parking meter zone shall be lawful for the period of time specified for that zone, as shown by a sign on the meter or by one or more signs posted along the street in sufficient number and of sufficient size to apprise the ordinarily observant person of the existence of the limited period within which lawful parking can be had along and upon such street. Parking of a vehicle in any parking meter space for a period longer than that allowed by such sign shall be deemed to be illegal and a violation of this article. Lawful parking may be had in the space during the hours and days set forth in section 114-111.

(Code 1985, § 26-171)

114-108 Parking meters in specified areas.

Parking meters or other similar devices that regulate timed and charged parking may be installed on any public street identified in any contract with the contracted operator of the system.

(Code 1985, § 26-172; Ord. No. 2284, § 1, 5-10-13)

114-109 Reserved.

Editor's note—Ord. No. 2284, § 1, adopted May 10, 2013, repealed § 114-109, which pertained to designated parking lots and derived from § 26-173 of the 1985 Code.

114-110 Reserved.

Editor's note—Ord. No. 2234, § 1, adopted February 29, 2012, repealed §§ 114-110—114-117, which pertained to hospital parking lot and derived from §§ 26-174—26-180 and 26-182 of the Code of 1985.

114-111 Parking meter operation; times; signals.

(a) All parking meters located on any street shall be used from 8:00 a.m. to 12:00 a.m. (midnight) on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of each week, Sundays excepted, and the following legal holidays excepted: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day, and Christmas Day.

(b) On all parking meters on any public street or any municipal parking lot now installed or hereafter installed in the future, the parking meter shall be so set as to display a signal showing the legal parking upon the deposit of the appropriate payments for the period of time prescribed and as shown on the meter. Each meter shall be so arranged that upon the expiration of the lawful time limit it will indicate by a proper visible signal that the lawful parking period has expired. In such cases the right of such vehicle to occupy such space shall cease and the operator or owner thereof shall be subject to the penalties hereinafter provided.

(c) Each parking meter shall be placed or set in such manner as to plainly show or display, by a signal or otherwise, that the parking meter space adjacent to such meter is or is not legally in use. Each such parking meter shall also indicate by a proper legend the payment fee to be deposited, the hours during which the use of the meter is required, and the legal parking time established. When operated, each meter shall indicate visibly by a dial and pointer, or otherwise, the elapsing legal parking time, and upon the expiration of such time shall indicate the illegal or over parking.

(Ord. No. 2297, § 1, 7-7-13)

114-112 Parking time limited.

On all parking meters the time for parking shall not exceed three hours from 8:00 a.m. to 12:00 a.m. Such meters shall allow parking from one hour up to three hours and signs shall be placed on the meters showing the time allowed for such parking. The meters shall be used from 8:00 a.m. to 12:00 a.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday of each week, Sundays and the following legal holidays excepted: New Year's Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.

(Ord. No. 2297, § 1, 7-7-13)

114-113 Violations of article.

No person shall:

- (1) Cause, allow, permit or suffer any vehicle registered in the name of, or operated by, such person to be parked overtime, or beyond the period of legal parking time established and shown on a parking meter in any parking zone or municipal parking lot.
- (2) Deposit in any parking meter any payment for the purpose of parking beyond the maximum legal parking time for the particular parking meter zone and space.

(3) Permit any vehicle to remain in any parking space adjacent to any parking meter while the meter is displaying a signal indicating that the vehicle occupying such parking space has already been parked beyond the period prescribed for such parking space.

(4) Park any vehicle across any line or marking of a parking meter space or in such position that the vehicle shall not be entirely within the area designated by such lines or markings.

(5) Deface, injure, tamper with, open or willfully break, destroy, or impair the usefulness of any parking meter installed under the provisions of this article, except persons legally authorized to open the meter.

(6) Deposit or cause to be deposited in any parking meter any slugs, device or metal substance, or other substitute for lawful coins.

(7) Park or allow or permit to be parked any motor vehicle owned or operated by such person for a period longer than that permitted and posted on the parking meter or in the parking meter zone in which such vehicle is parked.

(8) Park any motor vehicle in a parking space on any municipal parking lot so the rear of the vehicle is facing the parking meter.

(Ord. No. 2297, § 1, 7-7-13)

114-114 Deposit of payments; time limit.

The parking meters provided for in this article shall be installed in order to determine the length of time any vehicle has been parked in any metered space. The operator or driver of such vehicle using the parking space shall immediately deposit payment in such device if located in any metered zone on a public highway.

(Ord. No. 2297, § 1, 7-7-13)

114-115 Overtime parking; impounding; release.

(a) Whenever any vehicle is found parked in any parking meter space over time and beyond the period of legal time established for such space, or is found parked therein during any period when parking is prohibited, or is found parked in violation of any of the provisions of this article, such vehicle may be removed by, or under the direction of, any person authorized to enforce this article, by means of towing the vehicle to the automobile and vehicle pound. Such removal shall be at the risk of the owner.

(b) Before the owner or person in charge of such vehicle shall be permitted to remove the vehicle from the pound, he shall furnish evidence of his identity and ownership or right to possession, he shall sign a receipt for the vehicle, and shall pay to the Police Department a towage fee plus storage charges as set by resolution of the City Council from time to time.

(c) Such enforcing officer may in lieu of towing such vehicle to the pound serve upon the owner or operator of such vehicle, or attach or fasten to such vehicle, a parking meter violation notice directing the owner or operator to appear at the Traffic Bureau within the time specified by such notice.

(Ord. No. 2297, § 1, 7-7-13)

114-116 Notice of violation; contents.

(a) Whenever any motor vehicle is found parked or stopped in violation of any of the provisions of this parking meter division or any rules and regulations issued in connection therewith, or in violation of state law, the police officer or other duly authorized personnel finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a parking ticket or notice of violation. The City, or any other entity designated to enforce parking within the City, may delegate to other persons the power to issue and affix such tickets or notices of violation, but no other power normally exercised by a police officer or public safety officer in the exercise of his normal duties.

(b) The issuance of a parking ticket or notice of violation by a police officer, public safety officer, or other authorized person shall be deemed an allegation of a parking violation. Such parking meter violation notice, if given, shall state the date and location on the street of the meter adjacent to the space where such violation occurred, the time of violation, the kind of vehicle, the State license number of such vehicle, and any other facts relevant to such violation. A copy of such notice shall be attached or fastened to the vehicle in a conspicuous place. Such traffic ticket or notice of violation shall indicate the length of time in which the person to whom the same was issued must respond before the Parking Violations Bureau. It shall also indicate the address of the Bureau, the hours during which the Bureau is open, the amount of the penalty scheduled for the offense of the person to whom the ticket was issued, the manner in which the ticket may be contested, and advise that a civil infraction citation will be sought if such person fails to respond within the prescribed time.

(Ord. No. 2297, § 1, 7-7-13; Ord. No. 2322, § 1, 11-1-14)

114-117 Reserved.

Editor's note—Ord. No. 2234, § 1, adopted February 29, 2012, repealed §§ 114-110—114-117, which pertained to hospital parking lot and derived from §§ 26-174—26-180 and 26-182 of the Code of 1985.

114-118 Penalty.

- (a) Failure to remit payment to the Parking Violations Bureau for any notice of violation issued in accordance with this division within 90 days shall be a civil infraction.
- (b) Any person found responsible for violating any of the provisions of this division is subject to a civil infraction and may be ordered to pay a civil fine of not more than \$100.00 and costs in accordance with Section 907 of the Michigan Vehicle Code.
- (c) Nothing in this division shall limit the authority of police officers or other law enforcement personnel from issuing any other ticket or citation as otherwise authorized under the law.

(Code 1985, § 26-183; Ord. No. 2322, § 1, 11-1-14)

114-119—114-150 Reserved.

Editor's note—Ord. No. 2234, § 1, adopted February 29, 2012, repealed §§ 114-120—114-127, which pertained to valet parking and derived from Ord. No. 2077, § 1, adopted February 26, 1998.

DIVISION 4. PARKING VIOLATIONS BUREAU

114-151 Parking Violations Bureau.

- (a) Pursuant to Section 8395 of the Revised Judicature Act, State of Michigan, as amended, being MCL 600.8395, a Parking Violations Bureau is hereby established for the purpose of handling alleged parking violations within the City and to collect and retain civil fines and costs prescribed in the ordinance. The Parking Violations Bureau shall be under the supervision and control of the Finance Director.
- (b) The Finance Director shall establish a convenient location for the Parking Violations Bureau. The Finance Director shall further appoint qualified City employees to administer the bureau and adopt rules and regulations for the operation thereof.
- (c) Only notices of violation, as issued in accordance with this article, shall be disposed of by the Parking Violations Bureau. The Parking Violations Bureau shall not have the authority to dispose of any other ticket or citation written by any law enforcement officer or other duly authorized individual.

(d) No notice of violation may be settled at the Parking Violations Bureau, except at the specific request of the alleged violator. No penalty for any violation shall be accepted from any person who denies having committed the offense, and in no case shall any staff member of the Bureau determine, or attempt to determine, the truth or falsity of any fact or matter relating to the alleged violation. No person shall be required to dispose of a notice of violation at the Parking Violations Bureau and all persons shall be entitled to have any such violation reviewed as provided for under any relevant federal, state, or local law, ordinance, rule, procedure, process, or regulation. The unwillingness of any person to dispose of any notice of violation at the Parking Violations Bureau shall not prejudice him or in any way diminish the rights, privileges, and protection accorded to him by law.