

NO. 2840

<p>AN ORDINANCE AMENDING SECTIONS 030, 050, 060, 070 AND 120 OF TITLE 13, CHAPTER 21 (WASTEWATER DISCHARGE CONTROL ORDINANCE) OF THE LIVONIA CODE OF ORDINANCES, AS AMENDED</p>
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THE CITY OF LIVONIA ORDAINS:

Section 1. Section 030 of Title 13, Chapter 21 the Livonia Code of Ordinances, as amended, is hereby amended to read as follows:

13.21.030 Definitions. Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Chapter, shall have the meanings hereinafter ascribed to them:

A. "Act" or "the Act" shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act of 1977, as amended, 33 USC 1251, et seq.

B. "Authorized representative of industrial user" means:

1. A responsible corporate officer, where the industrial user submitting the reports required by this division is a corporation, who is either:
 - a. The president, vice-president, secretary, or treasurer of a corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - b. The manager of one (1) or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding thirty-nine million dollars (\$ 39,000,000.00) , when authority to execute documents has been assigned or delegated to said manager in accordance with corporate procedures; or

A general partner or proprietor where the industrial user submitting the reports required by this division is a partnership or sole proprietorship respectively.

C. "Available Cyanide" means the quantity of cyanide that consists of cyanide ion hydrogen cyanide in water (HCNaq), and the cyano-complexes of zinc, copper, cadmium, mercury and silver, determined by EPA method O1A-1677, or other method designated as a Standard Method or approved under 40 CFR Part 136.

D. "Best Management Practices" or "BMP" means programs, practices, procedures, or other directed efforts initiated and implemented by the user which can or do lead to the reduction, conservation or minimization of pollutants being introduced in the ecosystem, including, but not limited to, the Detroit sewer system. BMPs include, but are not limited to, equipment or technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, and improvements in housekeeping, maintenance, training, or inventory control and may include technical and economic considerations.

E. "Biochemical oxygen demand" or "BOD" means the quantity of dissolved oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)) as measured by standard methods.

F. "Board" means the Board of Water Commissioners of the City of Detroit.

G. "Bypass" means the intentional diversion of a wastestream from any portion of an industrial user's treatment facility. (See 40 CFR 403.17.)

H. "Centralized waste treatment (CWT) facility" means any facility that treats any hazardous or nonhazardous industrial waste received from off-site by tanker truck, trailer/roll-off bins, drums, barges, or any other forms of shipment including (1) a facility that treats industrial waste received exclusively from off-site, and (2) a facility that treats industrial waste generated on-site as well as industrial waste received from off-site.

I. "City" means the City of Livonia or the City Council of the City of Livonia or their authorized representatives or employees, unless otherwise specified.

J. "Compatible industrial wastewater" means wastewater that is produced by an industrial user which has a pollutant strength or characteristics similar to those found in domestic wastewater, and which can be efficiently and effectively transported and treated with domestic wastewater.

K. "Compatible pollutant" means pollutants which can be effectively removed by the POTW treatment system to within the acceptable levels for the POTW residuals and the receiving stream.

L. "Composite sample" means a collection of individual samples which are obtained at regular intervals and collected on a time-proportional or flow-proportional basis over a specified period and which provide a representative sample of the average stream during the sampling period. A minimum of four (4) aliquot per twenty-four (24) hours shall be used where the sample is manually collected. (See 40 CFR Part 403, Appendix E.)

M. "Confidential information" means the information which would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user.

N. "Control authority" means the Detroit Water and Sewerage Department (DWSD), which has been officially designated as such by the state under the provisions of 40 CFR 403.12 or authorized representatives or employees of the DWSD.

O. "Cooling water" means the noncontact water discharged from any use such as air conditioning, cooling or refrigeration, and whose only function is the exchange of heat.

P. "Days" means consecutive calendar days for the purpose of computing a period of time prescribed or allowed by this division.

Q. "Department" means the City of Detroit Water and Sewerage Department and authorized employees of the Department.

R. "Direct discharge" means the discharge of treated or untreated wastewater directly into the waters of the State of Michigan.

S. "Director" means the Director of the Detroit Department of Water and Sewerage or the Director's designee.

T. "Discharger" means a person who, directly or indirectly, contributes, causes, or permits wastewater to be discharged into the POTW.

U. "Domestic sewage" means waste and wastewater from humans or household operations which is discharged to, or otherwise enters, a treatment works.

V. "Environmental Protection Agency" or "administrator" or "EPA administrator" means the United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for authorized representatives or employees of the EPA.

W. "Facility" means a location which contributes, causes or permits wastewater to be discharged into the POTW including, but not limited to, a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable.

X. "Fats, oils or grease (FOG)" means any hydrocarbons, fatty acids, soaps, fats, waxes, oils, and any other nonvolatile material of animal, vegetable, or mineral origin that is extractable by solvent in accordance with standard methods.

Y. "Flow proportional sample" means a composite sample taken with regard to the flow rate of the wastestream.

Z. "Grab sample" means an individual sample collected over a period of time not exceeding fifteen (15) minutes, which reasonably reflects the characteristics of the stream at the time of sampling.

AA. "Indirect discharge" or "discharge" means the discharge or the introduction of pollutants from any non-domestic source, regulated under Section 307(b), (c) or (d) of the Act (33 USC 1317), into the POTW.

BB. "Industrial user" means a person who contributes, causes or permits wastewater to be discharged into the POTW from a place of business, endeavor, arts, trade or commerce, whether public or private, commercial or charitable. Single-family and multifamily residential dwellings are specifically excluded.

CC. "Industrial waste" means the discharge into the POTW of any liquid, solid or gaseous waste or form of energy, or combination thereof, resulting from any processes of industry, manufacturing, business, trade, or research, including the development, recovery, or processing of natural resources.

DD. "Interference" means a discharge which, alone or in conjunction with a discharge or discharges by other sources, both

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and

Therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Act, being 33 USC 1345, the Solid Waste Disposal Act (SWDA), as amended, being USC 6901, et seq. (including the Resource Conservation and Recovery Act (RCRA), and state

regulations contained in any State Sludge Management Plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, as amended, 42 USC 7401, et seq., the Toxic Substances Control Act, as amended, 15 USC 2601, et seq., and the Marine Protection, Research and Sanctuaries Act, as amended, 33 USC 1401, et seq.

EE. "National categorical pretreatment standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 USC 1317) which applies to a specific class or category of industrial users.

FF. "New source" means:

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under 33 USC Section 1317(c) 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 where 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; or

Construction on a site where an existing source is located resulting 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 (1)(b) or (1)(c) of this definition but otherwise alters, replaces, or adds to existing process or production equipment; or

3. Construction of a new source has commenced where the owner or operator has: (a) begun, or caused to begin as part of a continuous on-site construction program: (i) any placement, assembly, or installation of facilities or equipment; or (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities that are necessary for the placement, assembly,

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

GG. "NPDES permit" means a National pollutant discharge elimination system permit issued pursuant to 33 USC 1342.

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

II. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, unit of government, school district, or any other legal entity, or their legal representative, agent or assigns.

JJ. "pH" means the intensity of the acid or base condition of a solution calculated by taking the negative base-ten logarithm of the hydrogen ion activity. Activity is deemed to be equal to concentration in moles per liter.

KK. "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, or industrial, municipal and agricultural waste which is discharged into water.

LL. "Pollution" means the introduction of any pollutant that, alone or in combination with any other substance, can or does result in the degradation or impairment of the chemical, physical, biological or radiological integrity of water.

MM. "POTW" means "publicly owned treatment works."

NN. "Pretreatment" means the reduction of the amount of pollutants, the removal of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction, removal, or alteration may be attained by physical, chemical or biological processes, or process changes by other means, except as prohibited by federal, state or local law, rules and regulations.

OO. "Pretreatment requirements" means any substantive or procedural requirements related to pretreatment other than a national pretreatment standard imposed on an industrial user. (See 40 CFR 403.3(r).)

PP. "Pretreatment standards" means all National Categorical Pretreatment Standards, the general prohibitions specified in 40 CFR 403.5(a), the specific prohibitions delineated in 40 CFR 403.5(b), and the local or specific limits developed pursuant to 40 CFR 403.5(c), including the discharge prohibitions specified in Section 13.21.050 of this Chapter.

QQ. "Public sewer" means a sewer of any type controlled by a governmental entity.

RR. "Publicly owned treatment works " means a treatment works as defined by 33 USC 1292(2)(A) which is owned by a state or municipality, as defined in 33 USC 1362, including:

1. Any devices and systems used in the storage, treatment, recycling, or reclamation of municipal sewage or industrial waste of a liquid nature;

Sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant; or
3. The municipality, as defined in 33 USC 1362, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

SS. "Publicly owned treatment works treatment plant" or "POTW treatment plant" means that portion of the POTW designed to provide treatment to wastewater including recycling and reclamation of wastewater.

TT. "Quantification Level" means the measurement of the concentration of a contaminant obtained by using a specified laboratory procedure calculated at a specified concentration above the detection level. It is considered the lowest concentration at which a particular contaminant can be quantitatively measured using a specified laboratory procedure for monitoring the contaminant.

UU. "Representative sample" means any sample of wastewater which accurately and precisely represents the actual quality, character, and condition of one (1) or more pollutants in the wastestream being sampled. Representative samples shall be collected and analyzed in accordance with 40 CFR Part 136.

VV. "Sanitary wastewater" means the portion of wastewater that is not attributable to industrial activities and is similar to discharges from domestic sources

including, but not limited to, discharges from sanitary facilities and discharges incident to the preparation of food for on-site noncommercial consumption.

WW. "Service area" means and includes any area from which the wastewater is treated at the City of Detroit POTW treatment plant.

XX. "Shall" is mandatory; "may" is permissive.

YY. "Significant noncompliance" means any violation which meets one or more of the following criteria:

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

Technical review criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, Fats, Oil and Grease, and 1.2 for all other pollutants except Ph; see Section 13.21.030(PPP) below);

3. Any other violation of a pretreatment effluent limit (daily maximum or longer term average) that the Department determines has caused, alone or in combination with other discharges, interference or pass-through including endangering the health of POTW personnel or the general public;
4. Any discharge of a pollutant that has caused imminent endangerment to human health or welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority;
5. Failure to meet a compliance schedule milestone contained in a local control mechanism, or enforcement order for starting construction, completing construction, or attaining final compliance within ninety (90) days after the scheduled date;
6. Failure to provide required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules within thirty (30) days after the due date;

7. Failure to accurately report noncompliance; or
8. Any other violation or group of violations which the Department determines will adversely affect the operation or implementation of the local pretreatment program.

ZZ. "Significant industrial users" means any user of the POTW who:

1. Has an average discharge flow of 25,000 gallons per day or more of process wastewater excluding sanitary, boiler blowdown, and noncontact cooling water; or

Has discharges subject to the national categorical pretreatment standards; or
3. Requires pretreatment to comply with the specific pollutant limitations of this division; or
4. Has in its discharge toxic pollutants as defined pursuant to 33 USC Section 1317, or other applicable federal and state laws or regulations, that are in concentrations and volumes which are subject to regulation under this division as determined by the Department; or
5. Is required to obtain a permit for the treatment, storage or disposal of hazardous waste pursuant to regulations adopted by this state or adopted under the SWDA, as amended by the RCRA, and may or does contribute or allow waste or wastewater into the POTW including, but not limited to, leachate or runoff; or
6. Is found by the City of Detroit or City of Livonia to have a reasonable potential for adverse effect, either singly or in combination with other contributing industries, on the POTW operation, the quality of sludge, the POTW's effluent quality, or air emissions generated by the POTW.

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

BBB. "Standard industrial classification (SIC)" means and refers to a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended.

CCC. "Standard methods" means the laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of

Water and Wastewater prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation, or methods set forth in 40 CFR Part 136, "Guidelines for Establishing Test Procedures for Analysis of Pollutants." Where these two references are in disagreement on procedures for the analysis of a specific pollutant, the methods given in 40 CFR Part 136 shall be followed.

DDD. "State" means the State of Michigan.

EEE. "Stormwater" means any flow occurring during or following any form of natural precipitation and resulting therefrom.

FFF. "Suspended solids (total)" means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtration or as measured by standard methods.

GGG. "Total PCB" means the sum of the individual analytical results for each of the PCB aroclors 1016, 1221, 1232, 1242, 1248, 1254, and 1260 during any single sampling event with any aroclor result less than the quantification level being treated as zero.

HHH. "Total Phenolic Compounds" means the sum of the individual analytical results for each of the phenolic compounds of 2-chlorophenol, 4-chlorophenol, 4-chloro-3-methylphenol, 2,4-dichlorophenol, 2,4-dinitrophenol, 4-methylphenol, 4-nitrophenol, and phenol during any single sampling event expressed in mg/l.

III. "Toxic pollutant" means any pollutant or combination of pollutants designated as toxic in regulations promulgated by the administrator of the U. S. Environmental Protection Agency under the provisions of Section 307(a) of the Clean Water Act, (33 USC 1317), or included in the critical materials register promulgated by the Michigan Department of Environmental Quality, or other federal or state laws, rules or regulations.

JJJ. "Trade secret" means the whole, or any portion or phase, of any proprietary manufacturing process or method, not patented, which is secret, is useful in compounding an article of trade having a commercial value, and whose secrecy the owner has taken reasonable measures to prevent from becoming available to persons other than those selected by the owner to have access for limited purposes but excludes any information regarding the quantum or character of waste products or their constituents discharged or sought to be discharged into the Detroit wastewater treatment plant, or into the wastewater system tributary thereto.

KKK. "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with limits imposed under this Chapter or with national

categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

LLL. "User" means any person who directly or indirectly contributes, causes or permits the discharge of wastewater into the POTW as defined herein.

MMM. "Wastewater" or "wastestream" means the liquid and water-carried industrial or domestic wastes of dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which are contributed to or permitted to enter the POTW. Wastewater may also contain infiltration and inflow waters, stormwater and cooling water.

NNN. "Wastewater discharge permits" are permits issued by the Department in accordance with this Chapter.

OOO. "Waters of the state" means groundwater, lakes, rivers, streams, all other water courses and waters within the confines of this state as well as bordering this state in the form of the Great Lakes.

PPP. The following abbreviations shall have the designated meanings:

BMR	Baseline monitoring report
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
FOG	Fats, Oils or Grease
l	liter
MDEQ-MI	Michigan Department of Environmental Quality
mg	milligrams
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act: being 42 USC §6901 <u>et seq.</u>
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act, 42 USC 6901, <u>et seq.</u>
TSS	Total Suspended Solids
UST	Underground Storage Tank(s)
USC	United States Code

Section 2. Section 050 of Title 13, Chapter 21 the Livonia Code of Ordinances, as amended, is hereby amended to read as follows:

13.21.050 Discharge Prohibitions. A. General Pollutant Prohibitions. No user shall contribute or cause to be contributed to the POTW, directly or indirectly, any pollutant or wastewater which will cause interference or pass-through. These general discharge prohibitions apply to all such users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements. In addition, industrial users shall not contribute the following substances to the POTW:

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

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

3. Any wastewater having a pH of less than 5.0 units or greater than 11.5 units; or
4. Any wastewater containing petroleum oil, nonbiodegradable cutting oil, products of mineral oil origin, or toxic pollutants in sufficient concentration or quantity either singly or by interaction with other pollutants to cause interference, or pass-through, or constitute a hazard to humans or animals; or
5. Any liquid, gas, solid or form of energy, which either singly or by interaction with other waste is sufficient to create toxic gas, vapor, or fume within the POTW in quantities that may cause acute worker health and safety problems, or may cause a public nuisance or hazard to life or is sufficient to prevent entry into the sewers for their maintenance and repair; or
6. Any substance which is sufficient to cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamation processing where the POTW is pursuing a refuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria guidelines or regulations developed under Section 405 of the Act, with criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, being 42 USC 6901, et seq., as amended; the Clean Air Act, being 42 USC 7401, et seq., as amended; the Federal Toxic Substances Control Act, being 15 USC 2601 et seq., as amended; or state criteria applicable to the sludge management method being used; or
7. Any substance which will cause the POTW to violate the consent judgment in US EPA v City of Detroit, et al, C.A. No. 77-1100, or the

City of Detroit's National Pollutant Discharge Elimination System Permit; or

8. Any discharge having a color uncharacteristic of the wastewater being discharged; or
9. Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into a public sewer which exceeds 150° F (66° C) or which will cause the influent at the wastewater treatment plant to rise above 140°F (40°C); or
10. Any pollutant which constitutes a slug; or
11. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established in compliance with applicable state or federal regulations; or
12. Any floating fats, oils or grease which are sufficient to cause interference with or pass through the POTW; or
13. Any solid materials having a specific gravity greater than 1.2 or a cross-section dimension of one-half inch (1/2") or greater which are sufficient to cause interference with the POTW.

B. Specific Pollutant Prohibitions. No industrial user shall discharge wastewater containing in excess of the following limitations:

1. Compatible Pollutants.
 - a. Any fats, oils or grease (FOG) in concentrations greater than 1,500 mg/l based on the average of all samples collected within a twenty-four (24) hour period;
 - b. Any total suspended solids (TSS) in concentrations greater than 7,500 mg/l;
 - c. Any biochemical oxygen demand (BOD) in concentrations greater than 7,500 mg/l;
 - d. Any phosphorus in concentrations greater than 250 mg/l. Unless otherwise stated, all limitations are based upon samples collected over an operating period representative of a user's discharge and in accordance with 40 CFR part 136.

2. Non-compatible pollutants. No industrial user shall discharge wastewater containing in excess of:

Arsenic (As)	1.0 mg/l
Cadmium (Cd)	1.0 mg/l
Chromium (Cr)	25.0 mg/l
Copper (Cu)	2.5 mg/l
Cyanide (CN) (Available)	1.0 mg/l
Iron (Fe)	1000 mg/l
Lead (Pb)	1.0 mg/l
Nickel (Ni)	5.0 mg/l
Silver (Ag)	1.0 mg/l
Zinc (Zn)	7.3 mg/l
Total Phenolic compounds	1.0 mg/l

An industrial user may elect, in lieu of the Total Phenols Limitation specified above, to substitute specific limitations for each of the eight (8) individual phenolic compounds identified under the Total Phenols Limitation. The following specific limitations, expressed in mg/l, shall be applied in lieu of the Total Phenols Limitation, upon election;

2-Chlorophenol	2.0 mg/l
4-Chlorophenol	2.0 mg/l
4-Chloro-3-methylphenol	1.0 mg/l
2,4 Dichlorophenol	5.5 mg/l
2,4 Dinitrophenol	2.0 mg/l
4-Methylphenol	5.0 mg/l
4-Nitrophenol	15.0 mg/l
Phenol	14.0 mg/l

Following election, the wastewater discharge permit shall be modified to incorporate these substituted parameters and an industrial user shall be responsible for monitoring and reporting compliance with these parameters.

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR Part 136.

- a. The limitation for Total PCB is Non-detect. Total PCB shall not be discharged at detectable levels, based upon U.S. EPA Method 608, and the quantification level shall not exceed 0.2 ug/m/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of total PCB, the user shall be required to demonstrate compliance. For purposes of this section, this demonstration may be made using analytical data showing that the total PCB concentration is below the detection level, or submission of a BMP in accordance with 56-66.1(d).
- b. The limitation of Mercury (Hg) is Non-detect. Mercury (Hg) shall not be discharged at detectable levels, based upon U.S. EPA Method 245.1, and the quantification level shall not exceed 0.2 ug/m/l, unless a higher level is appropriate because of demonstrated sample matrix interference. Where one (1) or more samples indicate detectable levels of mercury, the user shall be required to demonstrate compliance. For the purposes of this section, this demonstration may be made using analytical data showing that the mercury concentration is below the detection level, or submission of a BMP in accordance with 56-3-66.1(d).

All limitations are based on samples collected over an operating period representative of an industrial user's discharge, and in accordance with 40 CFR Part 136.

3. Compliance Period. Within thirty (30) days of the effective date of this ordinance amendment, the Department shall notify all industrial users operating under an effective wastewater discharge permit of the requirement to submit a compliance report within one hundred eighty (180) days after the effective date of this ordinance amendment. The compliance report shall demonstrate the user's compliance or noncompliance with these limitations, and, in the event of noncompliance, include the submission of a plan and schedule for achieving compliance with the stated limitation. In no event shall a compliance schedule exceed eighteen (18) months from the effective date of this ordinance. An industrial user who does not demonstrate compliance may petition the Department for a second extension as part of an Administrative Consent Order. The Department shall include appropriate monitoring, reporting, and penalties into an Administrative Consent Order that relates to a second extension, and shall enter into such an agreement only upon a good-faith showing by the industrial user of the actions taken to achieve compliance with this provision.

C. National Categorical Pretreatment Standards. All users shall comply with the applicable National Categorical Pretreatment Standards and requirements promulgated pursuant to the Act as set forth in 40 CFR Subchapter N, Effluent Guidelines and Standards, which are hereby incorporated by reference and with all other applicable standards and requirements, provided, however, that where a more stringent standard or requirement is applicable pursuant to state law or regulation, or to this division, then the more stringent standard or requirement shall be controlling.

Affected dischargers shall comply with applicable reporting requirements under 40 CFR Part 403 and as established by the control authority. The National Categorical Pretreatment Standards which have been promulgated as of the effective date of this section are delineated in Appendix A of 40 CFR Part 403.

1. Intake water adjustment. Industrial users seeking adjustment of National Categorical Pretreatment standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15. Upon notification of approval by the control authority, the adjustment shall be applied by modifying the permit accordingly. Intake water adjustments are not effective until incorporated into an industrial user's permit.

Modification of National Categorical Pretreatment Standards. The control authority may apply to the U.S. Environmental Protection Agency or to the Michigan Department of Environmental Quality, whichever is appropriate, for authorization to grant removal credits in accordance with the requirements and procedures in 40 CFR 403.7. Such authorization may only be granted when the POTW treatment plant can achieve consistent removal for each pollutant for which a removal credit is being sought provided that any limitation on such pollutant(s) in the NPDES permit are neither being exceeded nor pose the prospect of being exceeded as a result of the removal credit being granted. Where such authorization is given to the control authority, any industrial user desiring to obtain such credit shall make an application to the control authority, consistent with the provisions of 40 CFR 403.7 and this Chapter. Any credits which may be granted under this provision may be subject to modification or revocation as specified in 40 CFR 403.7 or as determined by the control authority. A prerequisite to the granting of any removal credit may be that the industrial user pay a surcharge based on the amounts of such pollutants removed by the POTW, such surcharge being based on fees or rates which the board may establish and, when appropriate, revise from time to time. Permits shall reflect or be modified to reflect any credit granted pursuant to this section.

3. New sources. Industrial users who meet the new sources criteria shall install, maintain in operating condition, and “start-up” all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time and not to exceed ninety (90) days, new sources must meet all applicable pretreatment standards.
4. Concentration and mass limits. When limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. Equivalent limitations shall be calculated in accordance with 40 CFR 403.6(c)(3) and/or 40 CFR 403.6(c)(4) and shall be deemed pretreatment standards for the purposes of 33 USC 1317(d) and of this Chapter. Industrial users will be required to comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
5. Reporting requirements for industrial users upon effective date of Categorical Pretreatment Standards -- baseline report. Within one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging into or scheduled to discharge into the Detroit POTW shall submit to the control authority a report containing the information listed in 40 CFR 403.12(b)(1)-(7). Where reports containing this information have already been submitted to the Director or regional administrator in compliance with the requirement of 40 CFR 128.140(b), the industrial user will not be required to resubmit this information. At least ninety (90) days before commencement of any discharge, each new source and any existing sources that become industrial users after the promulgation of an applicable categorical pretreatment standard shall submit to the control authority a report which contains the information listed in 40 CFR 403.12(b)(1)-(5). In such report, new sources shall include information concerning the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall provide estimates of the information requested in 40 CFR 403.12(b)(4) and (5).

D. Dilution prohibited. Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no user shall increase the use of process water or, in any way, dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other pollutant-specific limitation or requirement imposed by this Chapter.

E. Hauled in wastewater. Any waste material or wastewater which is hauled into or within the service region for discharge to the POTW is subject to the requirements of this division including, but not limited to, permits, inspection, monitoring and enforcement. Unloading liquid or solid waste from hauling vehicles, directly or indirectly, into the POTW, with or without the benefit of pretreatment, is prohibited unless the person proposing to unload such waste has applied for and received a permit from the Department for unloading such waste in accordance with the Board's rules pertaining thereto. The discharger shall be subject to applicable terms, conditions, surcharges, fees or rates as established by the Board. Hauled in wastewater shall only be discharged at points designated by the POTW after authorization or approval issued pursuant to the general permit requirements. The control authority may establish specific limitations for sludge from municipally owned or operated POTW treatment plants which are different than the specific limitations in this division.

F. Centralized waste treatment. It is unlawful for a centralized waste treatment (CWT) facility to discharge any industrial waste or wastewater into the POTW without a wastewater discharge permit from the control authority. Any authorization granted, or permit issued, by the control authority to a centralized waste treatment (CWT) facility shall specify the type of wastewater for which treatment is provided, and discharge approval is sought, from the POTW. Unless such industrial waste or wastewater is determined by the control authority to require further authorization, a centralized waste treatment (CWT) facility that has submitted an application to, and received previous approval from, the control authority to discharge wastewater is not required to obtain further authorization from the control authority before discharging such wastewater.

An industrial user that provides centralized waste treatment services and files an application for the treatment and discharge of such types of wastewater to the POTW shall provide the following minimum information in support thereof:

1. The general nature, source and process(es) generating the type of wastewater. Any wastewater which is generated from those processes and is subject to national categorical pretreatment standards as delineated in Appendix A of 40 CFR Part 403 shall be so designated;

The identity of the toxic pollutants known or suspected to be present in the wastewater;

3. At least one (1) sample report showing the results of an analysis for the EPA priority pollutants for each type of wastewater for which application is made in subsection (F)(1) of this section;
4. A statement that is certified by a professional engineer which addresses the treatability and compatibility of the wastewater received or collected by the facility's treatment process(es);
5. The identity of the materials and/or pollutants whose transport or treatment are regulated by the EPA, by the state, or by any other governmental agency. Upon request, the centralized waste treatment (CWT) facility shall provide a copy of its permit and/or license to the control authority; and
6. Other information requested by the control authority including, but not limited to, information required by Section 13.21.070(C)(1)-(18) of this Chapter or by rules adopted by the Board. The discharge from a centralized waste treatment (CWT) facility will be deemed approved for those specific types of wastewater delineated in a permit and, upon issuance of such permit in accordance with the procedures contained in this Chapter, will be deemed approved for discharge into the POTW. The centralized waste treatment (CWT) facility shall comply with all applicable provisions contained in Section 13.21.070 of this Chapter regarding permits. In furtherance of its obligations as control authority, the control authority may include in the permit a requirement to report at selected intervals the information mandated in subsections (F)(1) through (F)(6) of this section. All users granted a permit under this section shall maintain records which, at a minimum, identify the source, volume, character, and constituents of the wastewater accepted for treatment and disposal. These records may be reviewed at any time by the control authority.

G. Groundwater discharges. Unless authorization has been granted by the control authority, the discharge of any groundwater into the POTW is prohibited. The control authority may authorize the discharge of groundwater resulting from maintenance and related activities of gas, steam, or electrical utilities through the use of general permits. Subject to appropriate reporting requirements, the general permit shall authorize discharge in accordance with the terms of the permit. Utilities shall comply with this provision within one hundred eighty (180) days after its enactment. If a person who proposes to discharge groundwater resulting from purge, response activity, or UST projects has applied for and received a permit from

the control authority, the control authority may authorize the discharge of such wastewater. Permits shall be issued in accordance with the procedures contained in this Chapter, or in accordance with any rules adopted by the Board.

H. Right of Revision. The City of Livonia reserves the right to establish different or more stringent limitations or requirements on discharges to the POTW.

I. Accidental Discharges.

1. Each industrial user which does not currently have an approved spill prevention plan or slug control plan shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Chapter, and all significant industrial users shall submit to the control authority detailed plans which show facilities and operating procedures to be implemented to provide protection against such accidental discharges. Facilities and measures to prevent and abate accidental discharges shall be implemented, provided, and maintained at the owner's or industrial user's cost or expense. New significant industrial users shall submit such a plan prior to the time they commence discharging.

For purposes of this section, the information provided shall include the approximate average and maximum quantities of such prohibited materials or substances kept on the premises in the form of raw materials, chemicals and/or waste therefrom and the containment capacity for each. Only substances that are in a form which could readily be carried into the POTW and constitute a concentration of five percent (5%) or greater in the raw material, chemical solution, or waste material are required to be reported. Volumes of less than fifty-five (55) gallons, or the equivalent thereof, need not be reported unless lesser quantities could cause pass-through or cause interference with the POTW.

The industrial user shall promptly notify the control authority of any significant changes or modifications to the plan including, but not limited to, a change in the contact person or substance inventory.

At least once every two (2) years, the control authority shall evaluate whether a significant industrial user needs a plan to control slug discharges, as defined by 40 CFR 403.8(f)(2)(v). Unless otherwise provided, all significant users shall complete, implement, and submit such a plan within thirty (30) days of notification by the control authority.

J. Notification requirements. Unless a different notice is provided by this Chapter or applicable law, within one (1) hour of becoming aware of a discharge into the POTW which exceeds or does not conform with federal, state, control authority or City of Livonia laws, rules, regulations or permit requirements, or which could cause problems to the POTW, or which has the potential to cause the industrial user to implement its plan prepared in accordance with this section, the industrial user shall telephone the control authority at its control center and notify the control authority of the discharge. The notification shall include the name of the caller, the location and time of discharge, the type of wastewater, the estimated concentration of excessive or prohibited pollutants and estimated volume, and the measures taken, or being taken, to abate the discharge into the POTW. Within five (5) calendar days after the discharge, the industrial user shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences and when required by the control authority, the industrial user's wastewater discharge permit may be modified to include additional measures to prevent such future occurrences. Such notification shall not relieve the industrial user of any expense, cost of treatment, loss, damages or other liability which may be incurred as a result of damage to the POTW, fish kills or any other environmental impairment or any other damage to person or property.

K. Notice to employees. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to contact in the event of an actual or potential excessive or prohibited discharge.

L. Recovery of costs. Any user discharging in violation of any of the provisions of this Chapter which produces a deposit or obstruction, or causes damage to or impairs the POTW, or causes the City of Detroit to violate its NPDES permit, shall be liable for any expense, loss, damage, penalty or fine incurred because of said violation or discharge. Prior to assessing such costs, the control authority shall notify the user of its determination that the user's discharge was the proximate cause of such damage, obstruction, impairment, or violation of the City of Detroit's NPDES permit and the intent to assess such costs to the user. Any such notice shall include written documentation which substantiates the determination of proximate cause and a breakdown of cost estimates. Failure to pay the assessed costs shall constitute a violation of this Chapter. Such charge shall be in addition to, not in lieu of, any penalties or remedies provided under this Chapter, other ordinances, statutes, regulations or at law or in equity.

M. Hazardous waste notification. All industrial users who discharge into the city collection system shall notify the control authority in writing of any discharge of a substance which, if otherwise disposed of, would be a hazardous waste as set forth in 40 CFR Part 261. Such notification must comply with the requirements of 40 CFR 403.12(p).

N. Authorized representative. The authorized representative, as defined in Section 13.21.030(B) of this Chapter, may designate a duly authorized representative of the individual designated in Section 13.21.030(B)(1) of this Chapter where:

1. The authorization is made in writing by the individual defined in Section 13.21.030(B)(1) or (2);

The authorization specifies either an individual or a position having responsibility for the overall operation of the facility where the industrial discharge originates, such as the position of plant manager, operator of a well or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

3. The written authorization is submitted to the control authority.

O. Pollution prevention. The control authority shall encourage and support industrial users to develop and implement pollution prevention programs which eliminate or reduce pollutant contributions beyond the levels required by this division. The control authority may require an industrial user to implement pollution prevention initiatives as part of an enforcement response, or as necessary to comply with its NPDES permit.

Section 3. Section 060 of Title 13, Chapter 21 the Livonia Code of Ordinances, as amended, is hereby amended to read as follows:

13.21.060 Fees for industrial users. A. It is the purpose of this section to provide for the recovery of costs from industrial users of the POTW. The applicable charges or fees shall be sufficient to meet the costs of the operation, maintenance, improvement or replacement of the system or as provided by law, contractual agreement or board action.

B. Charges and fees shall include but not be limited to:

1. Fees for reimbursement of costs of establishing, operating, maintaining or improving the control authority's industrial waste control and pretreatment programs;

User fees based on volume of waste and concentration or quantity of specific pollutants in the discharge and treatment costs including sludge handling and disposal;

3. Reasonable fees for reimbursement of costs for hearings, including, but not limited to, expenses regarding hearings officers, court reporters, and transcriptions; and
4. Other fees deemed necessary to carry out the requirements contained herein or as may be required by law.

Section 4. Section 070 of Title 13, Chapter 21 the Livonia Code of Ordinances, as amended, is hereby amended to read as follows:

13.21.070 Wastewater discharge permits. A. Required. It shall be unlawful for users to discharge into the POTW any wastewater which will cause interference or pass-through, or otherwise not comply with the discharge prohibitions of this Chapter. It shall be unlawful for a significant industrial user to discharge into the POTW without a wastewater discharge permit from the Detroit Water and Sewerage Department. Unless otherwise expressly authorized by the control authority through permit, order, rule or regulation, any discharge must be in accordance with the provisions of this Chapter.

1. All significant industrial users which are in existence on the effective date of the ordinance codified in this Chapter shall apply for a wastewater discharge permit within thirty (30) days of the effective date of the ordinance codified in this Chapter. Significant industrial users who are currently operating with a valid wastewater discharge permit are not subject to this provision. These applications are to include all information specified in the applicable provisions of this Chapter and, where applicable, any additional information which may be needed to satisfy the federal baseline monitoring report requirements of 40 CFR 403.12(b).

All new significant users shall apply for a wastewater discharge permit at least ninety (90) days prior to commencement of discharge. The application must include all information specified in this Chapter and, where applicable, any additional information that may be needed to satisfy the federal BMR requirements of 40 CFR 403.12(b). Until a permit is issued and finalized by the control authority, no discharge shall be made into the POTW.

3. Any user who proposes to discharge any wastewater other than sanitary or noncontact cooling water into the POTW shall request approval from the control authority for the discharge(s) at least thirty (30) days prior to the commencement of the discharge.

B. Permit application or reapplication. The control authority may require any user to complete a questionnaire and/or a permit application and to submit the same to the control authority for determining whether the industrial user is a significant user, or to determine changes in the wastewater discharges from a user's facility. Within thirty (30) days of being so notified, a user shall comply with the control authority's request in the manner and form prescribed by the control authority. Failure of the control authority to so notify a user shall not relieve the user of the duty to obtain a permit as required by this Chapter.

1. A user which becomes subject to a new or revised National Categorical Pretreatment Standard shall apply for a wastewater discharge permit within ninety (90) days after the promulgation of the applicable National Categorical Pretreatment Standard, unless an earlier date is specified or required by 40 CFR 403.12(b). The existing user shall provide a permit application which includes all the information specified in Section 13.21.070(C) and (G) of this Chapter.

A separate permit application shall be required for each separate facility.

3. Existing permittees shall apply for permit reissuance a minimum of ninety (90) days prior to the expiration of existing permits on a form prescribed by the control authority.

C. Application or reapplication information. In support of the application or reapplication, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

1. Corporate or individual name, any assumed name(s), federal employer identification number, address, and location of the discharging facility;

Name and title of the authorized representative of the industrial user who shall have the authority to bind the industrial user financially and legally;

3. All SIC numbers of all processes at this location according to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended;

4. Actual or proposed wastewater constituents and characteristics for each parameter listed in the permit application form. Such parameters shall include those applicable pollutants having numeric limitations as enumerated in Section 13.21.050(A) and (B) of this Chapter, those pollutants limited by national categorical pretreatment standards regulations for applicable industries and any toxic pollutants known or suspected to be present in the discharge, regulated in the previous

permit, or specifically requested by the Detroit Water & Sewerage Department. For each parameter, the expected or experienced maximum and average concentrations during a one-year period shall be provided. For industries subject to national categorical pretreatment standards or requirements, the data requested herein shall be separately shown for each categorical process wastestream. Combined wastestreams proposed to be regulated by the combined wastestream formula shall also be identified. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, as amended. Where 40 CFR Part 136 does not include a sampling or analytical technique for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator;

5. A listing and description of activities, facilities and plant processes on the premises. Those processes which are subject to national categorical pretreatment standards or requirements shall be so designated. As pertains to (C)(4) of this section, identify which pollutants are associated with each process;
6. Restricted to only those pollutants referred to in item (C)(4) of this section, a listing of raw materials and chemicals that are either used in the manufacturing process or could yield the pollutants referred to in item (C)(4) of this section. Any user claiming immunity from having to provide such information for reasons of national security shall furnish acceptable proof of such immunity;
7. A description of typical daily and weekly operating cycles for each process in terms of starting and ending times for each of the seven (7) days of the week;
8. Average and maximum twenty-four (24) hour wastewater flow rates, including daily, monthly and seasonal variations, if any; list each national categorical process wastestream flow rate and the cooling water, sanitary water and storm water flow rates separately for each connection to the POTW; list each combined wastestream;
9. A drawing showing all sewer connections and sampling manholes by the size, location, elevation and points or places of discharges into the POTW; also a flow schematic showing which connections receive each national categorical process wastestream and which connections receive stormwater, sanitary water or cooling water; also show which lines handle each combined wastestream. This schematic shall be

cross-referenced to the information furnished pursuant to subsection (C)(8) of this section;

10. Each product produced by type, amount, process, or processes and rate of production as pertains to processes subject to production based limits under the national categorical standards or requirements only;
11. A statement regarding whether or not the requirements of this Chapter 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 industrial user to meet the applicable standards and requirements. This statement shall be reviewed and signed by the authorized representative and, as appropriate, certified by a qualified professional;
12. Basic information on the program for the prevention of accidental discharges in accordance with the requirements of Section 13.21.050(I) of this Chapter;
13. Proposed or actual hours of operation of each pretreatment system for each production process;
14. A schematic and description of each pretreatment facility. Identify whether each pretreatment facility is of the batch type or continuous process type;
15. If other than DWSD potable water, the industrial user's source of intake water together with the types of usage and disposal method of each water source and the estimated wastewater volumes from each source;
16. If additional construction and/or operation and maintenance procedures will be required to meet the requirements of this Chapter and the national categorical pretreatment standards, the shortest schedule by which the user will provide such additional construction and/or implement the required operation and maintenance procedures;
17. Identify whether the user has conducted a waste minimization assessment or audit of its operations in order to identify all feasible source reduction and recycling practices that may be employed to reduce or eliminate the generation of pollutants and other waste at the facility; and

18. Any other information as may reasonably be required to prepare and process a wastewater discharge permit.

D. Permit issuance. Upon receipt of an application, the control authority shall review the application, determine and so notify the industrial user of any of the following:

1. The industrial user is not required to have a wastewater discharge permit;

The industrial user does not meet the definition of a significant industrial user but is found by the control authority to have no reasonable potential for adversely affecting the POTW operation or for violating any pretreatment standard or requirement, and is not required to have a wastewater discharge permit. The control authority shall make such determination in accordance with the requirements of 40 CFR 403.8(f)(6);

3. The application is incomplete or the information only partially satisfies the information and data required by 40 CFR 403.12 or the control authority, and that additional information and data are required which shall be promptly furnished. Where appropriate, the industrial user is notified regarding specific information that is missing, or that the application is unacceptable;

4. The industrial user is required to have a wastewater discharge permit. The control authority may withhold issuance of a permit to a significant user which has not submitted an adequate or timely report to the control authority in accordance with the baseline reporting requirements of 40 CFR 403.12, or whose discharge is in violation of this Chapter. If the control authority determines that an industrial user is required to have a wastewater discharge permit and has evaluated and accepted the data furnished, the industrial user will be notified accordingly by certified mail. The notification shall contain a copy of the proposed permit, so marked, for the industrial user's review. An industrial user has thirty (30) days from the date of mailing to file a response to the draft permit and, in accordance with the procedures contained in this Chapter, twenty (20) days from the date of mailing to file an appeal regarding a permit issued as final. Upon disposition by the control authority of any contested terms or conditions, a permit shall be issued as final. Only one (1) facility location shall be included in each permit.

E. Permit conditions. Wastewater discharge permits shall contain all requirements of 40 CFR 403.8(f)(1)(iii) and shall be deemed to incorporate all provisions of this Chapter, other applicable laws, rules, regulations, user charges and fees established without repetition therein.

1. Permits may also contain the following:
 - a. Limits on the average and maximum wastewater constituents or characteristics which are equivalent, more restrictive than or supplemental to the numeric limits enumerated in Section 13.21.050 of this Chapter or the applicable national categorical pretreatment standards;
 - b. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
 - c. Requirements for installation, operation and maintenance of discharge sampling manholes and monitoring facilities by the industrial user;
 - d. Restrictions on which of the user's discharge wastestreams are to be allowed to be discharged at each point of connection to the POTW;
 - e. Specifications for industrial user monitoring programs which may include sampling locations, frequency and type of sampling, number, types and standards for tests and reporting schedule;
 - f. Requirements for the prevention of accidental discharges and the containment of spills or slug discharges;
 - g. Restrictions based on the information furnished in the application;
 - h. Additional reporting requirements:
 - (i) All permittees shall submit a report on the form prescribed by the control authority, or on an alternative form approved by the control authority, indicating the status of compliance with all conditions enumerated or referred to in the wastewater discharge permit, or made applicable to the permit by this Chapter. Unless required more frequently, the reports shall be submitted at six-month intervals on a schedule to be established by the control authority. Analytical data generated by the control authority may not be submitted in lieu of the

facility's own monitoring data as required by the wastewater discharge permit.

- (ii) Permittees not subject to national categorical pretreatment standards or requirements shall submit a report in accordance with the requirements of this Chapter. The report shall show the concentration of each substance for which there is a specific limitation in the permit, or which may be identified by the control authority in accordance with this Chapter.
- (iii) Permittees subject to national categorical pretreatment standards or requirements shall submit compliance reports at the times and intervals specified by federal regulations and by the control authority. A compliance report shall be submitted to the control authority no later than ninety (90) days following the final compliance date for a standard, or in the case of a new source, no later than ninety (90) days, following commencement of the introduction of wastewater into the POTW, and in accordance with 40 CFR 403.12(d). A report on continued compliance shall be submitted at six-month intervals thereafter on the schedule established by the control authority and incorporated into the industrial user's discharge permit and in accordance with Section 13.21.070(E)(1)(h)(iv) and (v) of this Chapter. The reports shall be either on a form prescribed by the control authority or on an alternate form approved by the control authority, and shall indicate the nature and concentration of all pollutants in the discharge from each regulated process which are limited by national categorical pretreatment standards, for which there is a specific limitation in the permit, or which may be identified by the control authority in accordance with this Chapter. The report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharges regulated by the permit. The combined wastestream formula may be used for reporting purposes after the initial information has been furnished to the control authority, provided there have been no changes to the elements composing the combined wastestream.
- (iv) Reports shall contain the results of representative sampling performed during the period covered by the report and of the discharge and analysis of pollutants contained therein, and, for significant industrial users subject to production based standards, shall be cross-referenced to the related flow or

production and mass as required to determine compliance with the applicable pretreatment standards. The frequency of monitoring shall be as prescribed in the applicable general pretreatment regulations, being 40 CFR Part 403, or by the control authority, but no less than is necessary to assess and assure compliance by the industrial user with the most stringent applicable pretreatment standards and requirements. All sampling and analysis shall be performed in accordance with applicable regulations contained in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not include sampling or analytical techniques for the pollutants in question, sampling and analysis shall be performed using validated analytical methods approved by the administrator.

If an industrial user monitors any pollutant more frequently than required by the control authority using the procedures as prescribed in this section, the results of this monitoring shall be included in such report. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance practices and/or pretreatment system improvements or changes are necessary to bring the industrial user into compliance with the applicable pretreatment standards.

- (v) This report, and those required under this Chapter, 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 a fine and/or imprisonment for knowing violations." Said certification shall be signed by the facility's authorized representative, as defined in this Chapter. If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of the

authorized representative definition must be submitted to the control authority prior to, or together with, any reports to be signed by an authorized representative.

- (vi) If sampling performed by a permittee indicates a violation, the user shall notify the control authority within twenty-four (24) hours of the time said user becomes, or should have become, aware of the violation. In addition, the user shall repeat the sampling and analysis, and submit the results of the repeat analysis to the control authority within thirty (30) days after said user becomes, or should have become, aware of the violation.
- (vii) In the event the director determines that an industrial user is discharging substances in quality, quantity or at locations which may cause problems to the POTW or the receiving stream, the control authority has the authority to develop and enforce effluent limits applicable to the user. To the extent the control authority seeks to impose restrictions in a permit which are more restrictive than established in this Chapter, the control authority shall provide written documentation to explain the greater restriction for protection against pass-through, interference, or violation of the NPDES permit;
- (viii) Requirement for pollution prevention initiatives; and
- (ix) Other requirements reasonably necessary to ensure compliance with this Chapter.

F. Permit duration. Permits shall be issued for a specified time period. Except as deemed necessary by the control authority, or as otherwise provided for under this Chapter, permits shall be issued for a specified period of not more than five (5) years nor less than one (1) year. The existing permit for significant industrial users who timely submit an application for permit reissuance to the control authority shall be automatically extended until a permit is issued as final.

G. Permit modification. The terms and conditions of the permit may be subject to modification by the control authority during the term of the permit as limitations or pretreatment standards and requirements as identified in Section 13.21.050 are amended or other just cause exists. Just cause for a permit modification includes, but shall not be limited to, the following:

1. Material or substantial changes to an industrial user's facility or operation or changes in the characteristics of the industrial user's

effluent. It shall be the industrial user's duty to request an application form and apply for a modification of the permit within thirty (30) calendar days of the change;

Change(s) in the City of Detroit's NPDES permit;

3. Embodiment of the provisions of a legal settlement or court order;
4. Any changes necessary to allow the City of Detroit to fulfill its role as control authority;
5. An industrial user's noncompliance with portions of an existing permit;
6. A change of conditions within the POTW;
7. A finding of interference or pass-through attributable to the industrial user;
8. Amendments to, or promulgation of, national categorical pretreatment standards or requirements, including 40 CFR Part 403. Permittees shall request an application form and apply to the control authority for a modified permit within ninety (90) days after the promulgation of a new or revised national categorical pretreatment standard to which the industrial user shall be subject. Information submitted pursuant to this paragraph shall be confined to that information related to the newly promulgated or amended national categorical pretreatment standard or requirement. However, information previously submitted need not be duplicated, insofar as the previously submitted information continues to be current and applicable. In addition, the Department may initiate this action;
9. Changes in the monitoring location;
10. Typographical errors or omissions in permits;
11. The control authority may modify the permit on its own initiative based on its findings or reasonable belief of the above; or
12. The user may request a modification of the permit.

When initiated by the control authority, the industrial user shall be informed of any proposed change in its permit. The control authority will issue a draft permit and an industrial user has thirty (30) days to file a response to the draft modified permit. Thereafter, the control authority will issue a final permit and, unless appealed in

accordance with the procedures contained in this Chapter, the permit will become effective twenty (20) days after issuance.

H. Permit custody and transfer. Wastewater discharge permits are issued to a specific person as defined herein for a specific discharge. A wastewater discharge permit shall not be reassigned or transferred or sold to a different person, new owner, new industrial user, different premises, or a new or changed operation without the written approval of the control authority and providing a copy of the existing permit to the new owner or operator. It shall be the permit holder's duty to notify the control authority of any such change within thirty (30) days of the change. Wastewater discharge permits which do not receive the written approval of the control authority prior to the change shall be null and void regardless of reassignment, or transfer, or sale. The control authority may revoke a permit if it determines that an unreported change has occurred. The control authority may require the application for a new or modified permit if a change takes place. Any succeeding person shall comply with the terms and conditions of any existing permit which the control authority allows to be retained.

I. Permit notification requirements. All industrial users shall promptly notify the control authority in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous waste for which initial notification under 40 CFR 403.12(p) has been made, request a permit application form, and apply for a modification of the permit at least thirty (30) calendar days prior to the change. Failure of the industrial user to so apply shall be considered a violation of this Chapter.

Section 5. Section 120 of Title 13, Chapter 21 the Livonia Code of Ordinances, as amended, is hereby amended to read as follows:

13.21.120 Enforcement. A. Violations. It shall be a violation of this Chapter for any user to:

1. Fail to completely and/or accurately report the wastewater constituents and/or characteristics of the industrial user's discharge;

Fail to report significant changes in the industrial user's operations or wastewater constituents and/or characteristics within the time frames provided in this Chapter;
3. Refuse reasonable access to the industrial user's premises or waste discharge for the purpose of inspection or monitoring;

4. Restrict, lockout or prevent, directly or indirectly, access to any monitoring facilities constructed on public or private property. The locking or securing of the monitoring facility shall not constitute a violation pursuant to this subsection, provided that, upon request, reasonable access to the facility is promptly provided to the control authority;
5. Restrict, interfere, tamper with, or render inaccurate any of the control authority's monitoring devices including, but not limited to, samplers;
6. Fail to comply with any condition or requirement of the industrial user's wastewater discharge permit;
7. Fail to comply with any limitation, prohibition or requirement of this Chapter including any rule, regulation or order issued hereunder. Industrial users acting in full compliance with wastewater discharge permits issued prior to the effective date of this Chapter shall be deemed to be in compliance with the requirements of this Chapter, and such permits shall remain in effect and be enforceable under this Chapter until a superseding permit is effective. Industrial users shall comply with National Categorical Pretreatment Standards and requirements on the date specified in the federal regulations, regardless of compliance schedules.

B. Upsets. An upset shall constitute an affirmative defense to an action brought for noncompliance with National Categorical Pretreatment Standards if the requirements of paragraph (1) are met.

1. An industrial user who wishes to establish the affirmative defense shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that:
 - a. An upset occurred and the industrial user can identify the specific cause(s) of the upset;
 - b. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - c. The industrial user has submitted the following information to the control authority, orally or in writing, within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

- (i) A description of the discharge and cause of noncompliance;
- (ii) The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
- (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

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

3. The industrial user shall control production of all discharges to the extent necessary to maintain compliance with this Chapter 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.

C. Bypass. Bypasses are prohibited unless the bypass does not cause a violation of pretreatment standards or requirements and is for essential maintenance to ensure efficient operation of the treatment system. Bypasses meeting both of these criteria are not subject to the provisions of this subsection. Bypasses not meeting the foregoing criteria shall be subject to all of the following:

1. Notice of anticipated bypass. Industrial users anticipating a bypass shall submit notice to the control authority at least ten (10) days in advance.

Notice of unanticipated bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time the industrial user becomes or should have become aware of the bypass. A written submission shall be provided within five (5) days of the time the industrial user becomes or should have become aware of the bypass. The written submission shall contain a description 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.

3. Prohibition of bypass and enforcement. Bypass is prohibited, and the control authority may take enforcement action against a user for a bypass, unless:
 - a. The 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 which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c. The industrial user properly notified the control authority as described in subsection (C)(1) or (2) of this section.
4. Bypass approval. Where it meets all conditions in subsection (C)(3) of this section, the control authority may approve an anticipated bypass.

D. Where one (1) or more of the measurements taken for any pollutant defined in Section 13.21.050(B)(2) of this Chapter during a six (6) month period exceed by any magnitude the daily maximum non-detect limit for the same parameter, the industrial user may develop and implement pollution prevention initiatives, or a BMP, as part of its response. The Department may, as part of an Administrative Order, also require development of a BMP as a part of the Department's enforcement response. Upon approval of the Department, these pollution prevention initiatives or BMPs shall be made an enforceable part of the wastewater discharge permit. Industrial users shall provide, at six (6) month intervals, analytical results and certification supporting their implementation of an approved pollution prevention initiative or BMP. Upon demonstration of compliance, the industrial user may request to be relieved of this implementation requirement.

E. Emergency suspensions and orders. The control authority may order suspension of the sewer or wastewater treatment service and/or a wastewater discharge permit where such suspension is necessary, in the opinion of the control authority, to stop any actual or threatened discharge which presents or may present an imminent or significant hazard to the health or welfare of persons or to the environment, interferes or may interfere with the POTW, or causes or may cause the City of Detroit to violate any condition of its NPDES permit. Any person notified of a suspension of the sewer or wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. In the event the control authority provides informal notification under this section, written

confirmation and an order shall be provided within twenty-four (24) hours. In the event of a failure of the person to comply voluntarily with any suspension or revocation order, the control authority shall take such steps as deemed necessary, including immediate severance of the sewer connection or services, to prevent or minimize damage to the POTW system or danger to any individual or the environment. In the event such steps are taken, the director shall notify the industrial user in writing within twenty-four (24) hours of such action and the specific recourse available. In any event, the control authority shall provide the industrial user with an opportunity for a hearing before the director or his designated representative within ten (10) days of such action. The control authority shall notify the city of Livonia of this action within ten (10) days of such action. The industrial user shall submit a detailed written statement to the control authority and the City of Livonia within fifteen (15) days of the occurrence describing the causes of the harmful contribution and the measures taken to prevent any future occurrence. Upon proof of elimination of the non-complying discharge, the control authority shall reinstate the wastewater discharge permit and/or the sewer or wastewater treatment service.

F. Notice of violation. Except in the case of an actual or threatened discharge as specified in subparagraph (E) of this section, whenever the control authority has reason to believe that any industrial user has violated or is violating this Chapter, the control authority shall serve upon such industrial user a written notice stating the nature of the violation.

G. Notice of control authority action. The City of Livonia or designated department thereof shall be notified by the control authority of any enforcement activity taken within its boundaries.

H. Administrative actions. Whenever the director has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, or a pretreatment standard or requirement or any prohibition of this Chapter, the director, except in the case of emergency or flagrant violation, may initiate appropriate administrative enforcement action in order to compel the user to eliminate or to remedy such violation as soon as possible.

1. Conferences.

- a. The control authority may order any person who violates this Chapter to attend a conference wherein the control authority may endeavor to cause the user to eliminate or remedy the violation by establishing an enforceable compliance schedule. The notice of violation shall be served at least ten (10) days before the scheduled conference and shall set forth the date, time, and place thereof. The conference shall be conducted by a representative of

the control authority. The industrial user shall present a plan and schedule for achieving compliance with this Chapter. Nothing contained herein shall require the control authority to accept or agree to any proposed plan or schedule, or to prevent the control authority from proceeding with a show cause hearing as set forth in subsection (H)(2) of this section. If the attendees agree upon a compliance schedule, the user and the control authority's duly authorized representative may enter, by consent, into a compliance agreement or an administrative order setting forth the terms of such agreement. An industrial user must exhibit good faith and expeditious efforts to comply with this Chapter and any procedures, requirements, and agreements hereunder.

- b. Compliance schedules. The user and the control authority may agree upon a schedule which sets forth the terms and conditions, and time periods or schedules for completion of actions to remedy or to eliminate the causes of violation. These schedules may be developed as part of a compliance agreement, or an administrative consent order. Schedules developed under this subsection shall adhere to the following conditions:
 - (i) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of upgraded or additional pretreatment facilities, or to the implementation of additional operation and maintenance procedures required for the industrial user to meet the applicable pretreatment requirements and standards including, but not limited to, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, and completing construction;
 - (ii) No single increment referred to in subsection (H)(1)(b)(i) of this section shall exceed nine (9) months;
 - (iii) Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date which it expects to comply with this increment of progress, the reason(s) for delay, and the steps being taken by the industrial user to return to the established schedule; and

- (iv) Any deviations from the compliance schedule may result in the industrial user being found in violation of this Chapter.
 - c. Administrative orders. The control authority may order any industrial user, who violates or continues to violate this Chapter or a duly issued permit, to install and to properly operate devices, treatment facilities, or other related appurtenances. In addition, orders may contain such other requirements as might reasonably be necessary and appropriate to address the violation including the installation of pretreatment technology, additional self-monitoring and management practices, implementation of a waste minimization assessment to identify and implement feasible source reduction, and recycling practices to reduce the generation or release of pollutants at the facility. An order may be either an administrative consent order, which is the result of an agreement, or a unilateral administrative order.
2. Show cause hearing. The control authority may order any industrial user who violates this Chapter, or allows such violation to occur, to show cause before the control authority why a proposed enforcement action should not be taken. A notice shall be served on the industrial user specifying the time and place of a hearing before the control authority regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the industrial user to show cause before the control authority why any proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, at least ten (10) days before the hearing, with copies sent to the City of Livonia. Service may be made on any agent or officer of a corporation or authorized representative.
- a. Hearing proceeding. A representative of the control authority shall conduct the show cause hearing and take the evidence, and may:
 - (i) Issue, in the name of the Board, notices of hearings requesting the attendance and testimony of the witnesses and the production of evidence relevant to any matter involved in such hearings;
 - (ii) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the director for action thereon.

At any show cause hearing held pursuant to this Chapter, testimony shall be recorded by a court reporter.

3. Actions. After a show cause hearing has been conducted, unless the hearing officer finds that the user has demonstrated by a preponderance of the evidence that no violation of this Chapter and/or the user's duly issued permit occurred, the hearings officer shall issue an order to the industrial user directing any of the following actions:
 - a. Immediate compliance with the industrial user's wastewater discharge permit or with any applicable limitation, condition, restriction or requirement of this Chapter or applicable local, state or federal law or regulation;
 - b. Pretreatment of waste by installation of adequate treatment equipment or proper operation and maintenance of existing treatment equipment to be accomplished within a specified time period. Sewer or wastewater treatment service may be discontinued upon failure to comply;
 - c. Submission of compliance reports on effluent quality and quantity as determined by self-monitoring and analysis during a specified time period;
 - d. Submission of periodic reports on effluent quality and quantity as determined by self-monitoring and analysis throughout the final period set by a compliance date;
 - e. Control of discharge quantities;
 - f. Payment of costs for reasonable and necessary inspection, monitoring and administration of the industrial user's activities by the control authority during compliance efforts; and/or
 - g. Any such other orders as are appropriate, including, but not limited to, immediate termination of sewer or wastewater treatment services or revocation of a wastewater discharge permit or orders directing that following a specified time period, sewer or wastewater treatment service will be discontinued unless adequate treatment facilities, devices or operation and maintenance practices have been employed.

4. **Public Notification of Significant Noncompliance.** The control authority shall publish in the largest daily newspaper, published in the municipality in which the POTW is located, a list of all industrial users which were in significant noncompliance with applicable pretreatment requirements at any time during the previous twelve (12) months. All industrial users identified in a proposed publication shall be provided a copy of that proposed notice at least thirty (30) days before publication and allowed an opportunity to comment as to its accuracy.
- I. **Legal actions.**
 1. **Criminal action:** Any user who violates any provision of this Chapter, including the failure to pay any fees, charges, or surcharges imposed hereby, or any condition or limitation of a permit issued pursuant thereto or who knowingly makes any false statements, representations, or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Chapter or wastewater discharge permit or who tampers with, or knowingly renders inaccurate any monitoring device required under this Chapter is guilty of a misdemeanor and shall, upon conviction, be punished by a fine not to exceed five hundred dollars (\$500.00) per day for each violation or by imprisonment for not more than ninety (90) days or by both. The control authority is hereby authorized to seek, through its counsel, prosecution of criminal charges against any person violating any provision of this Chapter.
 2. **Civil action:** Whenever the control authority has reasonable grounds to believe that a user is violating, or has violated, a provision of its wastewater discharge permit, a pretreatment standard or requirement or any requirement of this Chapter, the director may commence a civil action to compel compliance in a court of competent jurisdiction to enjoin the user from discharging, and/or to obtain appropriate relief to remedy the violations. The control authority or board may also seek additional legal and/or equitable relief. The commencement of suit does not constitute an exclusive election of remedies and does not prohibit the control authority, Director, Board, City of Detroit or the City of Livonia from commencing action in federal court for discharges believed to be in violation of this Chapter, state and federal requirements contained in the Clean Water Act, the City of Detroit's NPDES permit or other applicable laws or requirements. In addition, the City of Detroit and/or the City of Livonia may recover the reasonable attorney fees, court costs, court reporters' fees and other unusual expenses related to enforcement activities or litigation against

the person found to have violated this Chapter or the orders, rules, regulations and permits issued hereunder.

3. All fines, costs, and penalties which are imposed by any court of competent jurisdiction shall be payable to the City of Detroit Water and Sewerage Department and the City of Livonia where applicable.

Section 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed only to the extent necessary to give this ordinance full force and effect.

Section 7. Should any portion of this ordinance be held invalid for any reason, such holding shall not be construed as affecting the validity of any of the remaining portions of this ordinance.

The above ordinance was passed at the regular meeting of the Council of the City of Livonia held Wednesday, September 9, 2009, at 8:00 p.m.

Linda Grimsby, City Clerk

The foregoing ordinance was authenticated by me on this 10th day of September, 2009.

Jack E. Kirksey, Mayor

Approved as to form:

Donald L. Knapp, Jr., City Attorney
Dated: September 10, 2009