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shall be commenced and completed as expeditiously as practicable, consistent with the purposes for which the entry was made.

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

D. Refusal to allow entry. If a person refuses to permit access (or unreasonably delays access) to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this Chapter, the City may order the termination of the discharge of wastewater to the POTW; order the person to permit access within a time certain; issue the person a notice of violation of this Section; or take other appropriate action as provided by this Chapter and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this Section shall constitute a violation of this Chapter.

Sec. 44-223. Notice of Violation

A. Any person found to be violating a provision of this Chapter may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by Section 44-225. of this Chapter.

B. Unless otherwise specified by the NOV, the following provisions shall apply: Within 30 days of the date of the NOV, the person shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and

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prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the Notice of Violation.

C. Nothing in this Section shall limit the authority of the City or the POTW to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation, or otherwise require the City or the POTW to first issue a Notice of Violation before initiating a civil or criminal action against a person for violating this Chapter. Further, receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected user of any and all liability associated with any violation.

D. Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this Chapter.

Sec. 44-224. Orders and Supplemental Enforcement Tools

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

A. Service. An order shall be served upon a person and shall contain the information as provided by Section 44-225. of this Chapter. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the POTW, may be oral and may be served by telephone, to be followed within 5 days by written confirmation of the oral order by the City Manager or the POTW Superintendent.

B. Types of Orders. The City may issue the following types of orders:

(1) Order to Immediately Cease and Desist Discharge. The City Manager or the POTW Superintendent may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Chapter. The order shall have immediate effect if the POTW Superintendent determines that the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the POTW to violate any term or condition of its NPDES permit. The POTW Superintendent shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Chapter.

(2) Order to Cease Discharge Within a Time Certain. The City may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Chapter by a certain time and date.

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The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the City, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a User Permit.

(3) Order to Effect Pretreatment. The City may issue an order to a user requiring the user to pretreat its discharge in accordance with this Chapter. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the order and this Chapter. The plan shall be submitted to the POTW Superintendent within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the City. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the City:

- (a) Retain a qualified engineer and/or consultant.
- (b) Obtain any engineering or scientific investigation or surveys deemed necessary.
- (c) Prepare and submit a preliminary plan to achieve pretreatment.
- (d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.
- (e) Establish a time to let any contract necessary for any construction.
- (f) Establish completion times for any construction necessary.
- (g) Establish a time limit to complete full pretreatment pursuant to the final order.
- (h) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phase or unit.

(4) Order to Affirmatively Respond. The City may issue an order requiring a person to perform any action required under this Chapter, including, without limitation, requiring a person to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

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(5) Order to Terminate Sewer Services. The City may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:

(a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.

(b) Failure of a user to notify the POTW of any discharge as described in Section 44-224.(B)(5)(a) of which the user was aware or reasonably should have been aware.

(c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the City.

(d) A knowing, willful violation of any term, condition or requirement of an order or User Permit, or any provision of this Chapter.

(e) A negligent violation of any major term, condition or requirement of an order or User Permit. For purposes of this Section, a "major" term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment, the POTW, or cause the POTW to violate its NPDES permit. If the POTW determines that physical blockage is necessary, the POTW shall make a reasonable attempt to deliver to the person who appears to be in control of the user's facility a written notice describing the reason for the physical blockage order. After delivery of the notice (or after a reasonable attempt to deliver the notice, even if delivery was unsuccessful), the POTW may immediately install the physical blockage. No person shall remove or tamper with a physical blockage installed by the POTW without prior written permission from the City.

(6) Order to Show Cause. The City may issue an order requiring a person to appear and explain any noncompliance with the requirements of this Chapter or any permit, order, decision or determination promulgated, issued or made under this Chapter, and to show cause why more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within 10 days after the order to show cause is issued, as follows:

(a) The Wastewater Board of Appeals shall conduct the hearing and take evidence. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.

(b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.

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(c) After reviewing the evidence taken at the hearing, the Wastewater Board of Appeals shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Chapter.

C. Immediate Response To Order By User May Be Required. Any user issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this Chapter, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the POTW Superintendent within 15 days of the occurrence.

D. Noncompliance Due to Factors Beyond User's Control. If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset as provided by Section 44-198.(A), the City may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

E. Amendment, Suspension and Revocation of Orders. An order shall be subject to amendment, suspension or revocation as determined appropriate by the City. Notice of the amendment, suspension or revocation shall be served upon the person in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Chapter.

F. Consent Orders and Agreements. The City may enter into a consent order or agreement with a person to resolve disputed claims and address identified and potential deficiencies in the person's compliance status. The order or agreement shall be in the form of a written agreement with the person and may contain

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appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.

G. POTW Authority to Require Financial Assurances. The City may require any user to post a performance bond (or other form of surety acceptable to the City Manager) sufficient to cover expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the user's discharges to the POTW (including, but not limited to, the costs to restore or repair any damage to the POTW) or sufficient to achieve consistent compliance with applicable laws and regulations, as determined necessary by the City. Further, any person that has in the prior 2 years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These financial assurance requirements may also be made conditions of a User Permit.

Sec. 44-225. Service of Notices of Violations, Orders and Notices of Assessments

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

A. Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by POTW's records. The person served shall sign and date the order or notice and shall return the signed original copy to the POTW; provided, that the failure to do so shall not affect in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the City against the person under authority of this Chapter. Receipt, or non receipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected person.

B. Contents. All orders and notices shall contain at least the following information, to the extent known by the POTW and as determined by the POTW to be applicable to the situation:

- (1) The name and address of the violator;
- (2) The location and time that the violation occurred or was observed, and the duration of the violation;
- (3) The nature of the violation, including the provisions of this Chapter or of any permit, order, decision, determination or agreement violated;

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- (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
- (5) The amount of the fine, penalty or charge assessed or due, if any;
- (6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;
- (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
- (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
- (9) The date and time the order or notice was issued.

C. Request for Additional Information. A person served may request additional information from the City regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Sec. 44-226. Publication of Users in Significant Noncompliance

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

A. Chronic violation of discharge limits, defined as results of analyses in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the numeric daily maximum limit, instantaneous limit, or the average limit for the same pollutant parameter;

B. Technical review criteria (TRC) violations, defined as results of analyses in which 33% or more of all of the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the daily maximum limit, instantaneous limit, or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);

C. Any other violation of a pretreatment effluent limit (instantaneous minimum, instantaneous maximum, daily maximum, or long-term average, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Department personnel or the general public);

D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent the discharge;

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- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide any required reports within 30 days after the due date;
- G. Failure to accurately report noncompliance; or
- H. Any other violation or group of violations, which may include a violation of Best Management Practices, that the POTW Superintendent determines will adversely affect the POTW or the operation or implementation of the POTW's pretreatment program.

Sec. 44-227. Municipal Civil Infractions and Administrative Fines

A. Violation; Municipal Civil Infraction. Except as provided by Section 44-228., and notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this Chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Chapter) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.

B. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Chapter (i) committed by a person within any 90-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Chapter shall be as follows:

(1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.

(2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.

C. Amount of Fines. Subject to the minimum fine amounts specified in Sections 44-227.(A) and 44-227.(B), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Chapter: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

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- C. Make inspections and tests of existing and newly installed, constructed, reconstructed, or altered sampling, metering, or pretreatment equipment to determine compliance with the provisions of this Chapter.
- D. Verify the completeness, accuracy and representativeness of self-monitoring data submitted and/or maintained by users.
- E. Investigate complaints of violations of this Chapter, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.
- F. Issue orders and notices of violation and take other actions as necessary to require compliance with this Chapter.
- G. Develop and implement a Control Authority Enforcement Response (CAER) Plan as required by 40 CFR 403.8(f)(5). The CAER Plan shall provide procedures for the POTW to investigate and respond to instances of noncompliance by users. The CAER Plan and any associated regulations developed by the POTW Superintendent shall become effective upon approval by the City.
- H. With the approval of the City, and in conjunction with the City's legal counsel, institute necessary civil or criminal judicial legal actions and proceedings in a court of competent jurisdiction against all users violating this Chapter to prosecute violations of this Chapter, to compel the abatement or prevention of violations, to compel compliance with this Chapter and any order, determination, permit or agreement issued or entered into under this Chapter, and to pursue any other necessary or advisable legal and/or equitable judicial relief or remedies with respect to violations of this Chapter.
- I. In conjunction with the City's legal counsel, commence a municipal civil infraction action against any user violating this Chapter, and issue municipal civil infraction citations and municipal civil infraction violation notices for violations of this Chapter.
- J. Perform any other actions authorized by this Chapter, or as necessary or advisable for the supervision, management and operation of the POTW and the enforcement of this Chapter and other applicable laws and regulations.

Division 16. User Pollution Controls**Sec. 44-208. Provision by Users of Necessary Pretreatment Facilities**

Users shall provide necessary wastewater treatment as required to comply with all applicable pretreatment standards and requirements within the time limitations specified by applicable law or regulation, and as required to comply with the requirements of a User Permit or order issued pursuant to this Chapter. All facilities required to pretreat discharges shall be provided, operated, and

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maintained at the user's sole expense. Detailed, professionally signed and sealed plans showing the pretreatment facilities, specifications, and operating procedures shall be submitted to the City for review and approval prior to construction. The POTW Superintendent may approve, approve with conditions, or disapprove the plans, specifications and operating procedures. A user shall not begin discharging from the treatment facilities until facilities have been approved and all conditions and requirements of the approval have been met as determined by the City. The review and approval by the City of such plans and operating procedures does not in any way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this Chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW prior to the user's initiation of the changes. (Users shall notify the POTW regarding the installation of new pretreatment facilities or modification of existing facilities as provided by Section 44-173. of this Chapter.)

Sec. 44-209. Proper Operation and Maintenance

A user shall at all times properly operate and continuously maintain, at the user's sole expense, all facilities and systems of treatment and control (and related appurtenances) that are installed or used by the user to comply with the requirements of this Chapter. Proper operation and maintenance includes, without limitation, effective performance, adequate funding (including replacement costs), adequate operator staffing, and adequate quality assurance/quality control (QA/QC) procedures for sampling and analysis, so as to provide adequate wastewater collection and treatment on a continuing basis, to conform with all local, state and federal laws and regulations, and to assure optimum long-term management of the facilities and system.

Sec. 44-210. Removed Substances

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

Sec. 44-211. Duty to Halt or Reduce Activity

Upon reduction of efficiency of operation, or loss, or failure of all or part of a user's pretreatment equipment or facility, the user shall, to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable standards, requirements, and limits, control its production and all discharges until operation of the equipment or facility is restored or an alternative method of treatment is provided. This requirement applies in situations, including,

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without limitation, where the primary source of power for the pretreatment equipment or facility is reduced, lost, or fails. It shall not be a defense for a user in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this Chapter.

Sec. 44-212. Duty to Mitigate

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

Sec. 44-213. Duty to Pretreat Prior to Discharge to POTW

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

Sec. 44-214. Implementation of Best Management Practices or Best Management Practices Plan

A. The City may require any user to develop and implement Best Management Practices to control, contain, treat, prevent, or reduce the discharge of wastewater, pollutants or other substances from the user's premises to the POTW, as determined necessary by the City.

B. In addition, the City may require a user to develop and submit a Best Management Practices Plan ("BMPP"), including an enforceable implementation schedule, for review and approval by the POTW Superintendent. The BMPP shall be submitted within 30 days after notification by the City or as otherwise required by a User Permit. The BMPP shall be directed at preventing the entrance of pollutants, directly or indirectly, into the POTW. The BMPP shall be available for inspection at all times at the user's premises. At a minimum, a user's BMPP shall contain all of the following elements, as determined necessary by the City, at a level of detail and in units and terms as determined necessary by the City to adequately evaluate the plan:

1. A statement of the purpose and objectives of the plan.
2. A description of the strategies, methods, policies and procedures to prevent, minimize or reduce the introduction of pollutants into the user's discharge and to minimize waste generation.
3. A description of the options available to the user to control accidental spillage, leaks and drainage.

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4. A description of best available or practicable control technologies available for the user's specific circumstances.
 5. A detailed facility layout and site diagram showing points of entry into the POTW.
 6. A description of the waste handling, treatment and discharge disposal facilities, including flow diagrams and process schematics.
 7. A description of operating and maintenance processes and procedures.
 8. Inventory of raw materials and a list of waste sources, including a list of all chemicals used or stored at the facility.
 9. A description of employee training programs, policies and procedures; continuing education programs; and participation.
 10. A description of documentation, including record keeping and forms.
 11. A description of monitoring activities.
 12. Information log of facility personnel, organization chart, emergency phone numbers, contact persons and maintenance or service representatives.
 13. Certification by a qualified professional that the plan is adequate to prevent spills, leaks, slug loads, or non-customary discharges of regulated substances, directly or indirectly, to the POTW.
 14. Such other information, documents or diagrams as required by the City Manager or the POTW Superintendent, including, but not limited to, any of the information required under Section 44-154. of this Chapter.
- C.** The BMPs or BMPP required of a user or approved for a user shall be incorporated in a User Permit issued to the user. If the user already has a User Permit, the existing permit may be modified to incorporate the BMP requirements. If the user does not currently have a User Permit, a permit shall be issued for that purpose.
- D.** The City may require revisions to users BMPP if the City determines that the plan contains elements that are inadequate, or as otherwise determined necessary by the City to ensure compliance with applicable requirements of this Chapter. Review of a BMPP by the POTW Superintendent shall not relieve the user from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

Sec. 44-215. FOG Interceptors; Alternate FOG Pretreatment Technology; Sand Traps.

- A.** General Requirements Applicable To All FOG Interceptors; Alternate FOG Pretreatment Technology; and Sand Traps.
1. Any user required to install a FOG interceptor, an Alternate FOG Pretreatment Technology ("AFPT"), or a sand trap to prevent the discharge of fats, oils, grease, sand, or other materials to the POTW shall comply with the minimum requirements as provided by this Section or as otherwise specified by the POTW Superintendent.

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2. Interceptors, AFPTs, and traps that are required by this Section shall be provided, cleaned, maintained in proper operating condition, and kept in continuously efficient operation at all times, at the sole expense of the owner of the premises.
 3. All interceptors, AFPTs, and traps shall be of a design, type, construction, and capacity approved in advance by the POTW Superintendent.
 4. The installation of all interceptors, AFPTs, and traps shall be subject to the POTW Superintendent's review and approval.
 5. All interceptors, AFPTs, and traps shall be located so as to be readily and easily accessible for maintenance, cleaning and inspection.
 6. All users required to install and maintain an interceptor, AFPT, or trap shall develop and carry out a system of maintenance and cleaning for the interceptor, AFPT, or trap, and shall keep accurate, detailed written records of the following:
 - (a) The maintenance and cleaning schedule;
 - (b) The names of the persons who maintained and cleaned the interceptor, AFPT, or trap, and the dates that the interceptor, AFPT, or trap was maintained and cleaned; and
 - (c) The method of cleaning and disposal location for removed materials for each maintenance and/or cleaning.
 7. At a minimum, all interceptors, AFPTs, and traps shall be inspected, cleaned and maintained according to the manufacturer's specifications or as otherwise provided by this Section, whichever requirements are more stringent, at the property owner's expense.
 8. All written records and documentation required to be kept by this Section with regard to interceptors, AFPTs, and traps shall be kept by the user on the premises for at least 3 years and shall be available for review by the POTW Superintendent during all operating hours. The user shall provide copies of required records to the POTW Superintendent upon the POTW Superintendent's request at the user's sole cost.
 9. Any problems with or damage to an interceptor, AFPT, or trap shall be reported immediately to the property owner and to the POTW Superintendent.
 10. Any problems with or damage to an interceptor, AFPT, or trap shall be rectified and/or repaired immediately by the property owner at the owner's sole cost.
 11. Interceptor, AFPT, or trap clean-out material, including, but not limited to, accumulated fats, oils, grease, and sand, shall not be discharged into the POTW.
 12. Bacteriological, chemical, or enzymatic products shall not be used to maintain or clean interceptors, AFPTs, or traps.
- B. Requirements For FOG Interceptors and AFPTs.**
A FOG interceptor or AFPT shall be required for all food service establishments (FSEs), and may also be required for any other user, premises, or establishment

determined by the POTW Superintendent to have a reasonable potential to adversely affect the POTW due to discharges of FOG.

1. Outdoor FOG Interceptors.

a. Outdoor FOG Interceptors Required. All FSEs shall install, operate, and maintain an outdoor FOG interceptor of a type, design, construction, and size approved in advance by the POTW; provided that if the POTW Superintendent determines that installation of an outdoor FOG interceptor would not be economically and/or technically feasible due to existing circumstances unique to the premises in question, the POTW Superintendent may instead allow the installation of Alternate FOG Pretreatment Technology as provided by Section 44-215.(B)(2). In all cases, the user shall bear the burden of demonstrating to the POTW Superintendent, at the user's sole cost, that the installation of an outdoor FOG interceptor is not feasible and that an alternate FOG pretreatment technology should instead be allowed.

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

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

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

(i) The interceptor shall provide a minimum capacity of 1500 gallons, unless the POTW Superintendent determines that a smaller minimum capacity is adequate for the premises.

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- (ii) The interceptor shall have a minimum of two compartments with fittings designed for FOG retention.
 - (iii) The interceptor shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature.
 - (iv) The interceptor shall be installed at a location, subject to the prior approval of the POTW Superintendent, where it can be easily accessible for inspection, cleaning, and removal of intercepted FOG, but shall not be located in any part of a building where food is handled.
 - (v) Access manholes, with a minimum diameter of 24 inches, shall be provided over each outdoor FOG interceptor chamber and sanitary tee. The access manholes shall extend at least to finished grade, and be designed and maintained to prevent water inflow or infiltration. The manholes shall also have readily removable covers to facilitate inspection, FOG removal, and sampling which, when bolted into place, shall be gastight and watertight.
- d. Minimum Inspection, Maintenance, and Cleaning Requirements for Outdoor FOG Interceptors.** Outdoor FOG interceptors shall comply with all of the following minimum maintenance, cleaning, and inspection requirements:
- (i) At a minimum, an outdoor FOG interceptor shall be inspected monthly by the property owner, or more often if dictated by site specific conditions or if required more frequently by the POTW Superintendent.
 - (ii) Pump-out of all accumulated FOG, water, and sludge shall occur quarterly at a minimum, or more often if the combined height of floatables and settled solids (including both the top and bottom layers of solids) exceed 25% of any interceptor compartment operating depth; if there is a visible discharge of FOG; or if required more frequently by the POTW Superintendent. The operating depth of a trap shall be determined by measuring the internal depth from the outlet water elevation to the bottom of the trap.
 - (iii) Each pump-out of the interceptor shall be complete and remove all contents, including removal of the entire grease mat, liquids, sludges, and solids from screens, baffles, air-relief chambers, and wash down of interior walls. The interceptor shall be refilled with clear water before being returned to service.
 - (iv) The interceptor shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could reduce the effective volume for FOG and sludge accumulation.
 - (v) Water removed during pump-out shall not be returned to the interceptor, and accumulated FOG and sludge shall not be reintroduced into any drainage piping leading to the public sewer.
 - (vi) Sanitary wastes shall not be discharged to sewer lines serviced by an outdoor FOG interceptor without specific prior approval by the POTW Superintendent.

(vii) The pump-out operation and disposal of the accumulated FOG, water, and sludge shall be done only by a licensed contractor. The POTW Superintendent shall be notified prior to any scheduled pump-out so that the operation can be witnessed if desired.

2. Alternate FOG Pretreatment Technology.

If the City Manager determines that installation of an outdoor FOG interceptor is not required as provided by Section 44-215.(B)(1)(a), then the POTW Superintendent may instead authorize the installation of an Alternate FOG Pretreatment Technology ("AFPT") approved by the POTW Superintendent as provided by this Section. The design, type, construction, capacity, installation, operation, and maintenance requirements for an AFPT for a user's proposed or existing discharge shall be as determined by the POTW Superintendent based on nature of the discharge and the unique circumstances applicable to the premises in question.

a. Indoor Grease Traps. If the AFPT approved by the POTW Superintendent is an indoor grease trap, the following requirements shall apply:

(i) Indoor grease traps shall be installed in all waste lines from sinks, drains, and other fixtures or equipment where grease may be discharged to the POTW; provided that no food waste disposal unit, dishwasher, wastewater or other liquid in excess of 140 degrees Fahrenheit (60 degrees Centigrade) shall be discharged into an indoor grease trap. Further, no acidic or caustic cleaners shall be discharged into an indoor grease trap.

(ii) Traps shall never be operated without the flow restrictor supplied by the unit's manufacturer.

(iii) Sizing and installation of the indoor grease traps shall be subject to the POTW's prior review and approval.

(iv) Traps shall be inspected and cleaned at least once per week, or more often if dictated by site-specific conditions, as needed to be maintained in fully functional and efficient operation, or as otherwise specifically required by the POTW Superintendent.

(v) FSEs with indoor grease traps shall employ kitchen Best Management Practices (BMPs) for pre-cleaning of plates, pots, pans, and similar methods to minimize grease loadings to the drainage system.

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

C. Sand and Oil Interceptors and Traps.

Oil and sand interceptors and traps may be required by the POTW Superintendent in any premises where the POTW Superintendent has determined that there is a reasonable potential for sand, oil, flammable wastes,

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or other harmful ingredients to enter the premise's discharges. If a plug or backup occurs that is caused by sand and/or oil, the POTW Superintendent may require that premises to install an oil and sand interceptor or trap. Oil and sand interceptors and traps shall be required for all premises engaged in the washing of motor vehicles.

D. Failure to comply.

1. The City shall have the right to enter and inspect any premises where an interceptor, AFPT, or trap is required to be installed for purposes of determining compliance with the requirements of this Section and as otherwise provided by Section 44-217. of this Chapter.
2. If a user fails to provide or maintain a required interceptor/AFPT, the City may do so (or cause the same to be done) and charge all of the costs to the user.
3. The failure of any premises where an interceptor/AFPT is required to comply with this Section may subject the violator to enforcement action and the remedies that are available by law and the terms of this Chapter, including, but not limited to, termination of the discharges from the premises to the POTW.

E. Permits.

The POTW Superintendent may issue and/or require user discharge permits for any user discharging FOG or sand to the POTW. The user discharge permits may include requirements that are more stringent than, or in addition to, the requirements specified by this Section, as determined appropriate by the POTW Superintendent.

Sec. 44-216. Additional Pretreatment Measures

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

- A.** Whenever deemed necessary, the POTW may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Chapter.
- B.** The POTW may require any person discharging into the POTW to install and continually maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow, subject to approval by the POTW.
- C.** Users with the reasonable potential to discharge explosive or flammable substances may be required to install and maintain an approved explosion hazard meter, combustible gas detection meter, or similar device, as determined appropriate by the POTW.

Division 17. Septage Waste

Sec. 44-217. Disposal of Septage Waste

All septage waste collected within the city shall be disposed of at the Greenville Wastewater Plant Septage Receiving Facility, except as provided below. Further, all septage waste collected in the portion of the service area not within the boundaries of the city may be accepted for disposal at the city wastewater plant septage receiving facility and septage outside of those boundaries may be on a case by case basis. The city wastewater plant septage receiving facility is an "available" receiving facility for the purpose of receiving septage wastes from the service area, as provided by NREPA section 11701(r).

A person shall not dispose of septage at the city wastewater plant septage receiving facility if the:

- (i) DEQ has issued an order prohibiting the operation of the city wastewater plant septage receiving facility, or
- (ii) city wastewater plant septage receiving facility has no capacity to accept additional septage. In addition, no load of septage waste may be accepted by the city wastewater plant unless:

- (1) Such septage waste has been made available for inspection by personnel of the city wastewater plant;
- (2) Disposal of such septage waste is consistent with the requirements of NREPA, the license of the city wastewater plant under NREPA, the DEQ-approved septage receiving operational plan for the city wastewater plant, and the ordinance; and
- (3) All rates, fees, charges, or other costs for septage waste disposal and treatment that are established as described in Section 44-219 of this chapter are paid simultaneously with, or in advance of, delivery of that load of septage waste to the city wastewater treatment plant septage receiving facility.

The city wastewater plant may reject any load of septage waste that is not in conformance with this division. Nothing in this ordinance precludes the lawful disposal of septage waste outside the state.

Sec. 44-218. Disposal of Additional Waste at the Septage Receiving Facility

As to any waste that is a fluid mixture of untreated and partially treated sewage solids, liquids, or sludge that is removed from a wastewater system and that does not meet the definition of a septage waste, shall not be disposed of at the city wastewater treatment plant septage receiving facility unless, (a) prior to disposal,

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each load has been inspected, **(b)** sampled, **(c)** tested, **(d)** documented as required by the city staff at the wastewater treatment plant and **(e)** disposal of each load has been approved in advance by POTW Superintendent.

Sec. 44-219. Rates, Fees, Charges, or Other Costs

Rates, fees, charges, or other costs of disposal of septage waste at the city wastewater plant shall be those established by resolution of the city council from time to time. At the reasonable discretion of the City, a person or business seeking to dispose of septage waste at the City's septage receiving facility may be required to establish and maintain financial assurance for payment of rates, fees, charges, or other costs of such disposal in an amount not to exceed twenty-five thousand dollars (\$25,000), consisting of a performance bond, cash in escrow, or a third-party guarantee satisfactory to the City. To the extent a person or business prepayes any rates, fees, charges, or other costs for disposal of septage waste at the city wastewater plant septage receiving facility, and the **(i)** DEQ issues an order prohibiting the operation of the city wastewater plant septage receiving facility, for any reason, or **(ii)** the city wastewater plant septage receiving facility has no capacity to accept additional septage, the City shall reimburse any user who has prepaid for septage disposal services a pro rata amount of unused septage disposal credit that a user has at the City's septage receiving facility.

Sec. 44-220. Violations and Penalties

Any person who violates any provisions of this division shall be fined an amount not to exceed one thousand dollars (\$1,000) for each violation (or such lower limit as may exist by virtue of state law limitations). Fines may be obtained as city administrative fines, or through the procedure for municipal civil infractions, or through proceedings in a court of law. If a violation is of a continuing nature, each day the violation occurs is a separate offense. The penalties for violation of this division shall be in addition to any penalties, fines, forfeiture, injunctions and/or license sanctions that may be imposed by sections 44-222, 44-223 and 44-224 or any other laws or regulations of the state or federal government. Nothing in this division shall be construed to relieve any person from any licensing requirements imposed by any other local, state or federal ordinance, regulation, or law.

Sec. 44-221. Recovery of Additional Costs Incurred by the City

In addition to any other rates, fees, charges, fines, penalties or other costs, a person who has disposed of any material at the city wastewater plant septage receiving facility or violated any provision of this division shall be responsible for any additional costs incurred by the City as a result of such activity, including

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without limitation expenses for any additional monitoring, sampling or analysis, expenses for additional investigation, costs for additional reports, costs for storing, dumping or treating material, costs for damages to or loss of the treatment process, or natural resources, or fines or penalties incurred by the City. Any such person shall be notified of all such charges and shall pay them within thirty (30) days of notification.

Division 18. Enforcement

Sec. 44-222. POTW Inspection, Surveillance and Monitoring Authority; Right of Entry

A. In general. The POTW is authorized to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by users or any other persons, compliance or noncompliance with applicable pretreatment standards and requirements, with this Chapter, and with other applicable laws and regulations. This authority includes, without limitation, the authority:

- (1) To verify the completeness, accuracy and representativeness of self-monitoring data submitted by users.
- (2) To determine compliance with the terms, conditions and requirements of this Chapter or of any permit, order, notice or agreement issued or entered into under this Chapter.
- (3) To support enforcement actions taken by the POTW against non-compliant users.
- (4) To determine if users have corrected problems identified in previous inspections.
- (5) To identify which (and to what degree) users influence the quality of the POTW's influent, effluent and sludge quality.
- (6) To evaluate the impacts of the POTW's influent on its treatment processes and receiving stream.
- (7) To evaluate the need for revised local limits.
- (8) To maintain current data on each user.
- (9) To assess the adequacy of each user's self-monitoring program and User Permit.
- (10) To provide a basis for establishing sampling and monitoring requirements for users.
- (11) To evaluate the adequacy of each user's operation and maintenance activities on its pretreatment system.

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(12) To assess the potential for spills and/or slug discharge control measures, and evaluate the effectiveness of spill and slug discharge control measures.

(13) To gather information for User Permit development.

(14) To evaluate compliance with existing enforcement actions.

(15) To require any user to submit one or more representative samples of the wastewater discharged or that the user proposes to discharge into the POTW.

(16) To determine compliance with requirements regarding implementation of best management practices; accidental discharge controls and protections; spill prevention or containment measures; and pollution prevention, minimization or reduction measures.

B. Right of entry. The City Manager and other authorized representatives of the City bearing proper credentials and identification are authorized to enter a user's premises (and any other person's premises, as determined necessary by the City Manager) to conduct inspection, surveillance and monitoring activities as necessary to determine compliance with this Chapter, and in that regard shall have, without limitation, the following minimum authority:

(1) To enter into any premises of any person in which a discharge source, treatment system or activity is located or in which records are required to be kept as provided by this Chapter, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and inspecting and making copies of required records. This shall include the right to take photographs or video.

(2) To set up and maintain on the person's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations, or to require the person to do so, at the person's sole expense.

(3) To randomly sample and analyze the effluent from persons and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements. The POTW shall inspect and sample the effluent from each Significant Industrial User at least once a year.

(4) To inspect any production, manufacturing, fabrication, or storage area where pollutants, subject to regulation under this Chapter, could originate, be stored, or be discharged to the POTW.

(5) To enter all private properties through which the POTW, the City, or other governmental agency holds an easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the POTW or wastewater transmission facilities lying within the easement. POTW representatives entering a person's premises for purposes authorized by this Chapter shall comply with the person's plant safety requirements regarding such matters as entry into confined spaces, use of safety glasses, and hearing protection requirements, as requested by the person. Entry

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shall be commenced and completed as expeditiously as practicable, consistent with the purposes for which the entry was made.

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

D. Refusal to allow entry. If a person refuses to permit access (or unreasonably delays access) to an authorized POTW representative or to permit the representative to obtain, take, and remove samples or make copies of documents or undertake other authorized inspection, surveillance and monitoring activities as provided by this Chapter, the City may order the termination of the discharge of wastewater to the POTW; order the person to permit access within a time certain; issue the person a notice of violation of this Section; or take other appropriate action as provided by this Chapter and other applicable laws and regulations (including, but not limited to, seeking the issuance of a search warrant). Further, the refusal to permit access (or causing an unreasonable delay in access) as provided by this Section shall constitute a violation of this Chapter.

Sec. 44-223. Notice of Violation

A. Any person found to be violating a provision of this Chapter may be served with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction of the violation. The person shall, within the period of time stated in notice, permanently cease all violations. The notice of violation (NOV) shall be served and shall contain the information as provided by Section 44-225. of this Chapter.

B. Unless otherwise specified by the NOV, the following provisions shall apply: Within 30 days of the date of the NOV, the person shall submit to the POTW a written explanation of the violation and a plan for the satisfactory correction and

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prevention thereof, to include specific required actions. Submission of the required plan shall not in any way relieve the person of liability for any violations occurring before or after receipt of the Notice of Violation.

C. Nothing in this Section shall limit the authority of the City or the POTW to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation, or otherwise require the City or the POTW to first issue a Notice of Violation before initiating a civil or criminal action against a person for violating this Chapter. Further, receipt, or non-receipt, of a Notice of Violation shall in no way relieve the affected user of any and all liability associated with any violation.

D. Failure to comply with any requirement of a notice of violation shall constitute a separate violation of this Chapter.

Sec. 44-224. Orders and Supplemental Enforcement Tools

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

A. Service. An order shall be served upon a person and shall contain the information as provided by Section 44-225. of this Chapter. However, orders to immediately cease and desist discharge, or to terminate sewer services, or other emergency orders where delay might endanger human health, the environment, or the POTW, may be oral and may be served by telephone, to be followed within 5 days by written confirmation of the oral order by the City Manager or the POTW Superintendent.

B. Types of Orders. The City may issue the following types of orders:

(1) Order to Immediately Cease and Desist Discharge. The City Manager or the POTW Superintendent may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Chapter. The order shall have immediate effect if the POTW Superintendent determines that the actual or threatened discharge to the POTW presents, or may present, imminent or substantial endangerment to the health or welfare of persons or to the environment; or causes, or may cause, interference or pass through; or may cause the POTW to violate any term or condition of its NPDES permit. The POTW Superintendent shall implement whatever action is necessary to halt or prevent the discharge, including, but not limited to, emergency suspension of service. The person shall be assessed for any penalties, fines, charges, surcharges, expenses, or losses incurred due to the actual or threatened discharge of pollutants as provided by this Chapter.

(2) Order to Cease Discharge Within a Time Certain. The City may issue an order to cease and desist from discharging any wastewater, pollutant, or discharge not in compliance with this Chapter by a certain time and date.

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The proposed time for remedial action shall be specified in the order. In addition to any other circumstances as determined appropriate by the City, an order may be issued under this Section for the failure to pay applicable permit fees or to comply with any term of a User Permit.

(3) Order to Effect Pretreatment. The City may issue an order to a user requiring the user to pretreat its discharge in accordance with this Chapter. Any user subject to an order to pretreat shall prepare a plan to pretreat its discharge so that the discharge complies with the requirements of the order and this Chapter. The plan shall be submitted to the POTW Superintendent within a reasonable period as specified in the order. The plan shall be prepared in accordance with good engineering practice and shall state whether construction is necessary, as well as identify measures that can be completed without construction. The plan shall contain a schedule of compliance for completion of each of the various phases necessary to implement full pretreatment. The schedule of compliance must be approved by the City. The schedule of compliance shall consist of one or more remedial measures, including enforceable timetables for a sequence of actions or operations leading to compliance with an effluent standard, or other prohibition or standard. The following steps or phases shall be included in the schedule of compliance as determined necessary by the City:

- (a) Retain a qualified engineer and/or consultant.
- (b) Obtain any engineering or scientific investigation or surveys deemed necessary.
- (c) Prepare and submit a preliminary plan to achieve pretreatment.
- (d) Prepare plans and specifications, working drawings, or other engineering or architectural documents that may be necessary to effect pretreatment.
- (e) Establish a time to let any contract necessary for any construction.
- (f) Establish completion times for any construction necessary.
- (g) Establish a time limit to complete full pretreatment pursuant to the final order.
- (h) If a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phase or unit.

(4) Order to Affirmatively Respond. The City may issue an order requiring a person to perform any action required under this Chapter, including, without limitation, requiring a person to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

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(5) Order to Terminate Sewer Services. The City may issue an order to terminate the sewer services of a user, including, but not limited to, immediate physical blockage of the user's sewer connection, for reasons including, without limitation, the following:

(a) A discharge that violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and that reasonably appears to present an imminent endangerment to human health, the environment or the POTW.

(b) Failure of a user to notify the POTW of any discharge as described in Section 44-224.(B)(5)(a) of which the user was aware or reasonably should have been aware.

(c) Failure of a user to sample, monitor, pretreat or report, or failure to install monitoring or pretreatment facilities, as required by an order of the City.

(d) A knowing, willful violation of any term, condition or requirement of an order or User Permit, or any provision of this Chapter.

(e) A negligent violation of any major term, condition or requirement of an order or User Permit. For purposes of this Section, a "major" term, condition or requirement is one the violation of which is reasonably likely to endanger human health, the environment, the POTW, or cause the POTW to violate its NPDES permit. If the POTW determines that physical blockage is necessary, the POTW shall make a reasonable attempt to deliver to the person who appears to be in control of the user's facility a written notice describing the reason for the physical blockage order. After delivery of the notice (or after a reasonable attempt to deliver the notice, even if delivery was unsuccessful), the POTW may immediately install the physical blockage. No person shall remove or tamper with a physical blockage installed by the POTW without prior written permission from the City.

(6) Order to Show Cause. The City may issue an order requiring a person to appear and explain any noncompliance with the requirements of this Chapter or any permit, order, decision or determination promulgated, issued or made under this Chapter, and to show cause why more severe enforcement actions against the person should not go forward. A show cause hearing shall be held within 10 days after the order to show cause is issued, as follows:

(a) The Wastewater Board of Appeals shall conduct the hearing and take evidence. Notice of the hearing shall be provided to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing.

(b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.

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(c) After reviewing the evidence taken at the hearing, the Wastewater Board of Appeals shall decide whether further enforcement action is required and, if so, the nature and extent of that further action, including, without limitation, the issuance of any order or imposition of any fines, fees, surcharges or penalties, as authorized by this Chapter.

C. Immediate Response To Order By User May Be Required. Any user issued an order as provided by this Section to immediately suspend its discharge to the POTW shall immediately stop or eliminate the discharge using whatever means are necessary to do so, or take any other action as required by the order. If the user fails to comply voluntarily with the order to immediately suspend its discharge, the POTW shall take any action determined necessary as authorized by this Chapter, including, without limitation, immediate suspension of water service and/or severance of the sewer connection or commencement of judicial proceedings, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The POTW may reinstate the wastewater treatment service and terminate any judicial proceedings, as applicable, upon satisfactory proof or other demonstration by the user that the noncomplying discharge has been eliminated or will not reoccur. A detailed written statement submitted by the user describing the causes of the noncomplying discharge and the measures taken to prevent any further occurrence shall be submitted to the POTW Superintendent within 15 days of the occurrence.

D. Noncompliance Due to Factors Beyond User's Control. If noncompliance with an order is unintentional and temporary and due to factors beyond the reasonable control of a user, and the user can demonstrate the conditions necessary for demonstration of an upset as provided by Section 44-198.(A), the City may modify the order or take other actions as determined appropriate. However, a user shall not be relieved of liability for noncompliance with an order to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

E. Amendment, Suspension and Revocation of Orders. An order shall be subject to amendment, suspension or revocation as determined appropriate by the City. Notice of the amendment, suspension or revocation shall be served upon the person in the same manner as notice was provided for the original order. An amendment, suspension or revocation of an order shall be subject to the same procedures for review and appeal as the original issuance of the order, as provided by this Chapter.

F. Consent Orders and Agreements. The City may enter into a consent order or agreement with a person to resolve disputed claims and address identified and potential deficiencies in the person's compliance status. The order or agreement shall be in the form of a written agreement with the person and may contain

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appropriate provisions, including, without limitation, compliance schedules and stipulated fines and remedial actions.

G. POTW Authority to Require Financial Assurances. The City may require any user to post a performance bond (or other form of surety acceptable to the City Manager) sufficient to cover expenses (direct and/or indirect) that might reasonably be incurred by the POTW as a result of the user's discharges to the POTW (including, but not limited to, the costs to restore or repair any damage to the POTW) or sufficient to achieve consistent compliance with applicable laws and regulations, as determined necessary by the City. Further, any person that has in the prior 2 years been responsible for causing interference or pass through at the POTW may be required to obtain liability insurance sufficient to cover the reasonable costs of responding or restoring the POTW in the event of a second such incident. These financial assurance requirements may also be made conditions of a User Permit.

Sec. 44-225. Service of Notices of Violations, Orders and Notices of Assessments

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

A. Service. Service shall be by personal delivery or certified mail (return receipt requested), addressed to the user, alleged violator or other person, as applicable, at the person's last known address as shown by POTW's records. The person served shall sign and date the order or notice and shall return the signed original copy to the POTW; provided, that the failure to do so shall not affect in any way the person's obligation to comply with the order or notice. Further, a notice or order served by mail may not actually be received by the person, but this shall not nullify in any way any enforcement action subsequently taken by the City against the person under authority of this Chapter. Receipt, or non receipt, of a notice or order shall not in any way relieve the affected person of any liability associated with the violation. Further, the issuance of a notice or order will not be a bar against, or a prerequisite for, any other enforcement actions by the City against the affected person.

B. Contents. All orders and notices shall contain at least the following information, to the extent known by the POTW and as determined by the POTW to be applicable to the situation:

- (1) The name and address of the violator;
- (2) The location and time that the violation occurred or was observed, and the duration of the violation;
- (3) The nature of the violation, including the provisions of this Chapter or of any permit, order, decision, determination or agreement violated;

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- (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
- (5) The amount of the fine, penalty or charge assessed or due, if any;
- (6) The manner in which, and time and date by which, any fine, penalty or charge must be paid, including any penalty or charge for late payment;
- (7) The remedial action ordered, the time within which required actions must be taken, and any consequences for failure to do so.
- (8) The right to appeal the issuance of the order or notice and a summary of the procedures for appeal, or other applicable administrative procedures.
- (9) The date and time the order or notice was issued.

C. Request for Additional Information. A person served may request additional information from the City regarding the contents or requirements of any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Sec. 44-226. Publication of Users in Significant Noncompliance

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

A. Chronic violation of discharge limits, defined as results of analyses in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the numeric daily maximum limit, instantaneous limit, or the average limit for the same pollutant parameter;

B. Technical review criteria (TRC) violations, defined as results of analyses in which 33% or more of all of the measurements taken for the same pollutant parameter during a six month period equal or exceed the product of the daily maximum limit, instantaneous limit, or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants, except pH);

C. Any other violation of a pretreatment effluent limit (instantaneous minimum, instantaneous maximum, daily maximum, or long-term average, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of Department personnel or the general public);

D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the POTW's exercise of its emergency authority to halt or prevent the discharge;

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- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit or enforcement order, for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide any required reports within 30 days after the due date;
- G. Failure to accurately report noncompliance; or
- H. Any other violation or group of violations, which may include a violation of Best Management Practices, that the POTW Superintendent determines will adversely affect the POTW or the operation or implementation of the POTW's pretreatment program.

Sec. 44-227. Municipal Civil Infractions and Administrative Fines

A. Violation; Municipal Civil Infraction. Except as provided by Section 44-228., and notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, a person who violates or fails to comply with any provision of this Chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Chapter) is responsible for a municipal civil infraction, subject to payment of a civil fine of not less than \$1,000.00 per day for each infraction and not more than \$10,000.00 per day for each infraction, plus costs and other sanctions.

B. Repeat Offenses; Increased Fines. Increased fines may be imposed for repeat offenses. As used in this Section, "repeat offense" means a second (or any subsequent) municipal civil infraction violation of the same requirement or provision of this Chapter (i) committed by a person within any 90-day period and (ii) for which the person admits responsibility or is determined to be responsible. The increased fine for a repeat offense under this Chapter shall be as follows:

(1) The fine for any offense that is a first repeat offense shall be not less than \$2,500.00, plus costs.

(2) The fine for any offense that is a second repeat offense or any subsequent repeat offense shall be not less than \$5,000.00, plus costs.

C. Amount of Fines. Subject to the minimum fine amounts specified in Sections 44-227.(A) and 44-227.(B), the following factors shall be considered by the court in determining the amount of a municipal civil infraction fine following the issuance of a municipal civil infraction citation for a violation of this Chapter: the type, nature, severity, frequency, duration, preventability, potential and actual effect, and economic benefit to the violator (such as delayed or avoided costs or competitive advantage) of a violation; the violator's recalcitrance or efforts to comply; the economic impacts of the fine on the violator; and such other matters as justice may require. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered in determining the amount of a fine. However, mitigating factors shall not be considered unless it is determined that the violator has made all good faith efforts to correct and terminate all violations.

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D. Authorized Local Official. Notwithstanding any other provision of the City's laws, ordinances and regulations to the contrary, the following persons are designated as the authorized local officials to issue municipal civil infraction citations directing alleged violators to appear in district court for violations of this Chapter (or, if applicable, to issue municipal civil infraction notices directing alleged violators to appear at a municipal ordinance violations bureau): the City Manager, any sworn law enforcement officer, and any other persons so designated by the City.

E. Other Requirements and Procedures. Except as otherwise provided by this Section, the requirements and procedures for commencing municipal civil infraction actions; issuance and service of municipal civil infraction citations; determination and collection of court ordered fines, costs and expenses; appearances and payment of fines and costs; failure to answer, appear or pay fines; disposition of fines, costs and expenses paid; and other matters regarding municipal civil infractions shall be as set forth in Act No. 236 of the Public Acts of 1961, as amended.

F. Administrative Fines. Notwithstanding any other section of this Chapter, any user who is found to have violated any provision of this Chapter, or permits and orders issued hereunder, shall be fined in an amount not to exceed \$500.00 per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinctive violation. Such assessments may be added to the user's next scheduled sewer service charge and the POTW Superintendent shall have other collection remedies as he has to collect other service charges. Unpaid charges, fines, and penalties shall constitute a lien against the user's property.

Sec. 44-228. Criminal Penalties; Imprisonment

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

Sec. 44-229. Continuing Violation

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

Sec. 44-230. Number of Violations

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

A. Applicable concentration limitations and mass (or loading) limitations shall be treated as separate limitations, and a user may be liable and penalized separately for exceeding any of those limitations for a single pollutant or sampling parameter.

B. Each violation of a daily maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each day on which the violation occurs or continues.

C. Each violation of an instantaneous minimum or instantaneous maximum limit for a single pollutant or sampling parameter shall constitute a separate violation for each such occurrence, and there may be multiple violations for each day on which such a violation occurs or continues.

D. Each violation of a monthly average limit (or of some other average limit period) for a single pollutant or sampling parameter shall constitute a separate violation for each day of the month (or other stated period) during which the violation occurred, regardless of the number of days on which samples were actually taken. (For example, in a month with 31 days, a violation of the monthly average limit for that month constitutes 31 violations for each pollutant parameter for which the monthly average limit was exceeded during the month.)

E. Except with regard to violations of average limits as provided by Section 44-230.(D), a violation will be deemed to have continued to occur each day beginning with the first day the violation occurred to the day the user is able to demonstrate through appropriate sampling results that the violation is no longer occurring.

F. If for any period a user has violated both a daily maximum limit and an average limit for a particular pollutant parameter, then the total number of violations is the sum of the days on which the daily maximum limit was violated plus the number of days in the averaging period.

G. If a User Permit regulates more than one outfall, each outfall shall be considered separately in computing the number of violations as provided by this Section.

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H. If a user is discharging a wastestream that is required to be monitored and analyzed under continuous monitoring procedures then all of the following shall apply:

(1) If at any time during a daily 24-hour period the continuous monitoring shows that the monitored parameter exceeded the instantaneous minimum, instantaneous maximum, or daily maximum limit for that parameter, then a violation has occurred.

(2) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds the instantaneous minimum, instantaneous maximum, or daily maximum limit more than once after returning to compliance during that period, then each such exceedance shall be considered a separate violation.

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

(4) If during a daily 24-hour period under continuous monitoring the monitored parameter exceeds instantaneous minimum, instantaneous maximum, or the daily limit for more than 66% of the 24-hour, as determined in minutes of the day, then the user will be considered to be in significant non-compliance.

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

Sec. 44-231. Nuisance

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

Sec. 44-232. Reimbursement

A. Any person who discharges to the POTW (including, but not limited to, any person who causes or creates a discharge that violates any provision of this Chapter, produces a deposit or obstruction, or otherwise damages, injures, or impairs the POTW, or causes or contributes to a violation of any federal, state or local law governing the POTW, whether any such act is intentional or unintentional) shall be liable to and shall fully reimburse the POTW for all expenses, costs, losses or damages (direct or indirect) payable or incurred

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by the POTW as a result of any such discharge, deposit, obstruction, damage, injury, impairment, violation, exceedence, noncompliance, or act. The costs that must be reimbursed to the POTW shall include, but shall not be limited to, all of the following:

- (1) All costs incurred by the POTW in responding to the violation or discharge, including, expenses for any cleaning, repair or replacement work, and the costs of sampling, monitoring, and treatment, as a result of the discharge, violation, or noncompliance.
- (2) All costs to the POTW of monitoring, surveillance, and enforcement in connection with investigating, verifying, and prosecuting any discharge, violation, or noncompliance.
- (3) The full amount of any fines, assessments, penalties, and claims, including natural resource damages, levied against the POTW, or any POTW representative, by any governmental agency or third party as a result of a violation of the POTW's NPDES permit (or other applicable law or regulation) that is caused by or contributed to by any discharge, violation, or noncompliance.
- (4) The full value of any City staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, and actual attorney fees and defense costs (including the POTW's legal counsel and any special legal counsel), associated with reviewing, responding to, investigating, verifying, and/or prosecuting any discharge, violation, or noncompliance or otherwise incurred by the POTW in administering and enforcing the requirements of this Chapter. Further, the POTW is authorized to correct any violation of this Chapter or damage or impairment to the POTW caused by a discharge and to bill the person causing the violation or discharge for the amounts to be reimbursed. The costs reimbursable under this Section shall be in addition to fees, amounts or other costs and expenses required to be paid by users under other Sections of this Chapter.

B. In determining the amounts to be reimbursed, the POTW may consider factors such as, but not limited to, the following:

- (1) The volume of the discharge.
- (2) The length of time the discharge occurred.
- (3) The composition of the discharge.
- (4) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the effect of the discharge.
- (5) The toxicity, degradability, treatability and dispersal characteristics of the discharges.
- (6) The direct and indirect costs incurred by the POTW, or imposed upon the POTW to treat the discharges, including sludge handling and disposal costs.
- (7) Fines, assessments, levies, charges, expenses and penalties imposed upon and/or incurred by the POTW, including the POTW's costs of defense of actions,

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or suits brought or threatened against the POTW by governmental agencies or third parties.

(8) Such other factors, including the amount of any attorney's fees; engineering, consultant, and expert fees; expenses, costs, sampling and analytical fees; repairs; as the POTW deems appropriate under the circumstances.

C. Costs to be reimbursed to the POTW as provided by this Section may be assessed to the user as provided by Section 44-224 of this Chapter, or as otherwise determined appropriate by the City Manager in conjunction with an enforcement action.

D. The failure by any person to pay any amounts required to be reimbursed to the POTW as provided by this Section shall constitute an additional violation of this Chapter.

Sec. 44-233. Review or Approval by City

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

Sec. 44-234. Severance or Suspension of Sewer and/or Water Service

If a user violates or continues to violate any provision of this Chapter (including, without limitation, any notice, order, permit, decision or determination promulgated, issued or made by the POTW under this Chapter), or if the City determines that the user's actual or proposed discharge may present an imminent or substantial endangerment to the health or welfare of persons or the environment, the City may immediately, and without notice, sever or suspend sewer and/or water service provided to the user by the City. If severed or suspended, the sewer and/or water service shall recommence only after the user has satisfactorily demonstrated to the City the user's ability to comply with all applicable provisions of this Chapter, and only at the user's sole expense.

Sec. 44-235. Judicial Relief

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

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Sec. 44-236. Cumulative Remedies

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

Division 19. Administrative Review and Appeals**Sec. 44-237. Procedures Available**

Any person aggrieved by a Notice of Violation, Order, or other action taken by the City under this Chapter may request review and reconsideration by the City and/or may appeal to the Wastewater Board of Appeals as provided by this Division. If review and reconsideration or appeal is not properly and timely requested in connection with an action as provided by this Division, the action shall be deemed final. The person requesting the appeal shall pay an appeal fee in the amount determined from time to time by the City. The appeal fee shall be paid at the time that the appeal is requested.

Sec. 44-238. Review and Reconsideration by the City Manager

A request for a review and reconsideration by the City Manager must be made in writing within 7 days from the date of the City's action in question. The request must state the reasons for the review and shall include all supporting documents and dates. A hearing on the request shall be scheduled at the earliest practicable date as determined by the City Manager. The hearing shall be conducted on an informal basis at the Wastewater Treatment Plant or at another location designated by the City Manager. The City Manager shall conduct the hearing. Following the informal hearing, the City Manager may affirm or reverse, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in the City Manager's opinion, ought to be made in the case under consideration. The City Manager shall notify the aggrieved person of the decision on the request within 14 days of the hearing. The City Manager may request additional information and extend the time for his/her

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decision by an additional 7 days following the submission of the additional information. The decision of the City Manager may be appealed to the Wastewater Board of Appeals as provided by Section 44-239. All supporting documentation and information shall be provided solely by the person requesting the appeal.

Sec. 44-239. Appeal to Wastewater Board of Appeals

A. The City Council of the City of Greenville shall serve as a Wastewater Board of Appeals ("WBA"). The WBA shall consider appeals from final decisions of the City Manager (and other appeals as expressly provided by this Chapter). The WBA shall adopt its own rules of procedure, and keep a record of its proceedings, showing findings of fact, the action of the board, and the vote of each member upon each question considered. The presence of five members of the WBA shall be necessary to constitute a quorum.

B. The following provisions shall govern appeals of final decisions of the City Manager made to the WBA under this Chapter:

(1) An appeal from any final action of the City Manager must be made to the WBA within 7 days from the date of the action appealed. The appeal may be taken by any person aggrieved by the action. The appellant shall file a written notice of appeal with the City Manager and with the WBA. The notice of appeal shall specify the grounds for the appeal and shall be accompanied by a non-refundable appeal fee of \$500.00. Failure to file a timely notice of appeal shall be deemed to be a waiver of the right to appeal.

(2) Prior to a hearing before the WBA regarding an appeal, the City Manager shall transmit to the WBA a written summary of all previous action taken in connection with the action being appealed. The WBA may, at the WBA's discretion, request the City Manager to provide further information regarding the action that is the subject of the appeal.

(3) The WBA shall fix a reasonable time for the hearing of the appeal. Notice of the hearing shall be provided at least 10 days in advance of the hearing to require the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing. The appellant must submit an exhibit and witness list to the WBA at least 5 days before the hearing or as directed by the WBA.

(4) The WBA shall conduct the hearing. At the hearing, attorneys may represent the parties and they may file briefs, present evidence, and call, examine and cross examine witnesses. Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.

(5) The WBA shall admit all testimony having reasonable probative value and shall exclude irrelevant or unduly repetitious testimony, as determined by the WBA. The WBA shall not be bound by common law or statutory rules of

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evidence. The appellant shall have the burden of proof and persuasion for showing that the City Manager's decision was clearly erroneous.

(6) Within 30 days after the completion of the hearing, the WBA shall mail or otherwise deliver to all of the parties a written decision granting, denying or modifying the decision appealed and/or relief being sought. The decision of the WBA on the matter shall be final, and shall be a final determination for purposes of judicial review.

Sec. 44-240. Payment of Charges, Penalties, Fines, and Other Costs or Fees Pending Outcome of Appeal

All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any appeal process shall be due and payable to the POTW and the City, as applicable. Upon resolution of any appeal, the amounts due and payable shall be adjusted accordingly, provided that any refunds shall be retroactive to the previous four monthly billings only. The POTW may terminate wastewater treatment services if a corrective course of action is not taken or if service charges, penalties, fines, fees, surcharges, costs, or expenses are not paid by a user.

Sec. 44-241. Finality of Action

If an appeal is not demanded as provided by this Division within the periods specified by this Division, the City Manager's action shall be deemed final. If an appeal is properly demanded, the action appealed shall be suspended until a final determination has been made by the WBA, except for orders to immediately cease and desist discharge; orders to terminate sewer services; other emergency orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; and as otherwise expressly provided by this Chapter (such as for permit appeals, Section 44-164).

Sec. 44-242. Appeals from Determination of WBA

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

Division 20. Protection from Damage

Sec. 44-243. Protection from Damage

It is a misdemeanor for any person to maliciously or willfully break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment that is part of the POTW. Any person violating this provision shall be

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subject to immediate arrest under charge of disorderly conduct, and shall be subject to other sanctions and remedies as provided by this Chapter, including, but not limited to, reimbursement of the POTW as provided by Section 44-232. of this Chapter.

Division 21. Municipal Liability
Sec. 44-244. Municipal Liability

Neither the POTW nor the City (including, but not limited to, City staff, employees, and officials) shall be responsible for interruptions of service due to natural calamities, equipment failures, or the actions of users. It shall be the responsibility of the users that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

Division 22. Use of Public Sewers Conditional
Sec. 44-245. Use of Public Sewers Conditional

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

Division 23. Vacation of Hazardous Property
Sec. 44-246. Vacation of Hazardous Property

If the City determines that there is a health or welfare hazard created by the emanation of sewage being exposed to the surface of the ground or the draining of sewage from property under the surface of the ground or into any ditch, storm sewer, lake or stream, and that the continuance of the use of the private sewage works by the property poses an immediate threat to humans, the City Manager may order and require the occupants to vacate any structure on the property forthwith.

Division 24. Industrial Pretreatment Program Fees

Sec. 44-247. Purpose

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

Sec. 44-248. IPP Fees

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

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

Sec. 44-249. IPP Fee Amounts

A. IPP fees shall be paid by users to the City in amounts determined necessary by the POTW from time to time to reimburse the POTW for all costs and expenses incurred by the POTW in administering the IPP program. To the extent practical, the fees shall be set in an amount to include at least the POTW's average total costs for that purpose. With regard to IPP activities undertaken by the POTW with regard to particular users, the fees shall be charged to the users

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on a time and materials basis, including, but not limited to, the full value of any City staff time (including any administrative and overhead costs and any required overtime), consultant and engineering fees, testing fees, and actual attorney fees and defense costs, plus general administrative expenses, based on the nature and requirements of the IPP activities undertaken for each user.

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

Sec. 44-250. Surcharges

A. Surcharges are intended to reimburse the POTW for all costs incurred by the POTW in handling or treating a discharge that contains pollutants in excess of specified surcharge concentrations, loadings or other applicable limits. These costs may include, but are not limited to, the actual cost of treatment including chemical, equipment, and personnel costs.

B. Any user exceeding applicable surcharge limitations or other applicable limits shall be subject to the imposition of one or more surcharges as provided by this Section to reimburse the POTW for any costs or expenses, direct or indirect, the POTW may incur in handling or treating the discharge, or which may be imposed upon the POTW, where the exceedence of applicable limits causes or contributes to those costs or expenses.

C. The amount of a surcharge assessed shall be as specified in the surcharge rate schedule and associated surcharge provisions prepared by the POTW and approved from time-to time by the City.

D. All violations of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this Chapter, subject to applicable fines, penalties and other enforcement actions provided by this Chapter. In no event shall the imposition of a surcharge for a discharge that does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation of this Chapter.

Sec. 44-251. Billing and Collection of IPP Fees

User Permit application fees shall be due upon submission of permit applications. Except as otherwise required by the POTW, all other IPP fees shall be due within

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30 days of the date of the activity or service for which the fee is required. For fees not paid at the time of service, the amount of the fee shall be added to the user's sewage disposal service charges or billed separately. IPP fees provided for by this Division shall be billed, collected and enforced pursuant to the procedures as provided by the City for sewer service fees under this Chapter, and other applicable City laws or regulations.

Division 25. Sewer Service and Connection Fees**Sec. 44-252. Sewer Service and Connection Fees**

A monthly sewer service fee shall be charged to all users as established from time to time by resolution of Council or as otherwise required by applicable laws or regulations or these Codified Ordinances. This fee covers the City's cost of operation, maintenance, repair and replacement of the POTW, as well as any debt service charges.

A. Sewer rates for all users outside the corporate limits shall be twice the rate established for users within the city.

B. For non-residents, the city shall not be required to furnish services to the premises located outside the city, but may, after a written resolution from Eureka Township Board approving the same and after a written request from the owner of land without the city that the land outside the city limits be served with city sewers, at the discretion of and upon the resolution of the city council, furnish service to one or any premises without the city. The furnishing of services to one or more premises without the city shall not require or obligate the city to serve other locations outside the city.

C. Connection charges for both users within and without the city limits to connect to the sewage works of the city shall be as established by the city.

Division 26. Delinquent Accounts**Sec. 44-253. Delinquent Accounts**

If any moneys owed to the City remain unpaid on their due date, the City may collect them by one or more of the following methods:

A. The City may shut off and disconnect sewer or water, or both services, to the premises.

B. The City Clerk or City Treasurer may turn any delinquent amounts under this section over to the County Treasurer in the same way as delinquent ad valorem

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property taxes are reported and/or add them to the tax rolls and collect them in the same manner as ad valorem property taxes.

C. The City may take all appropriate legal or equitable actions to collect any amounts due the City under this Chapter.

Sec. 3. Severability. Sections of this Chapter shall be deemed severable and should any section, clause or provision of this Chapter be declared to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be invalid.

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

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

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

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

Adopted this 16th day of July, 2013, by the City Council, City of Greenville, Michigan.

On roll call, the vote was:

Yeas: Six

Nays: None

By: 
Bradley S. Hool
Clerk-Treasurer

Certification

I, Bradley S. Hool, Clerk of the City of Greenville, Michigan, do hereby certify that the foregoing is a true copy of the ordinance adopted by the City of Greenville City Council at a regular meeting held on July 16th, 2013, at 7:30 PM, and that it was published in Daily News on July 26th, 2013.


Clerk-Treasurer