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March 29, 1993

41

Robert Brandon, President ✓  
Village of Martin  
P.O. Box 234  
Martin, MI 49070

Joyce Merrill, Clerk  
Village of Martin  
P.O. Box 234  
Martin, MI 49070

Re: New Sewer Use Ordinance

Dear Mr. Brandon and Mrs. Merrill:

Enclosed is a new draft of the proposed sewer use ordinance for the Village. In comparison to the draft I sent previously, I have made the article numbers correspond to the City of Plainwell's ordinance for better cross-reference.

I have also enclosed a copy of a Notice of Adoption which you can use for publication purposes. I have summarized each article and underneath each article, every section is referred to, but without the section number. This should comply with the requirements for a synopsis of the ordinance for publication. Please note that you must indicate five public places within the Village where a full and complete copy of the Ordinance will be made available.

Further, in Section 8 regarding user charges, no specific charges have been entered in this new ordinance. The ordinance now provides that these charges will be set by the Village Council by "resolution". This allows the Council to set these charges by resolution rather than have to go through the procedures for amending this Ordinance whenever the charges are changed. Most municipalities are drafting their ordinances in this fashion. Therefore, when you adopt this Ordinance be sure to include a resolution which sets forth the current rates and charges that

Robert Brandon, President  
Joyce Merrill, Clerk  
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correspond with your existing ordinance. For instance, your existing ordinance sets out a user charge at 95 cents per 1,000 gallons. If this is to remain the same, then have a resolution prepared that lists the charges in that manner.

Should you have any questions regarding this ordinance or the Notice of Adoption, please call me.

Very truly yours,

**BAUCKHAM, SPARKS, ROLFE &  
THOMSEN, P.C.**

John K. Lohrstorfer

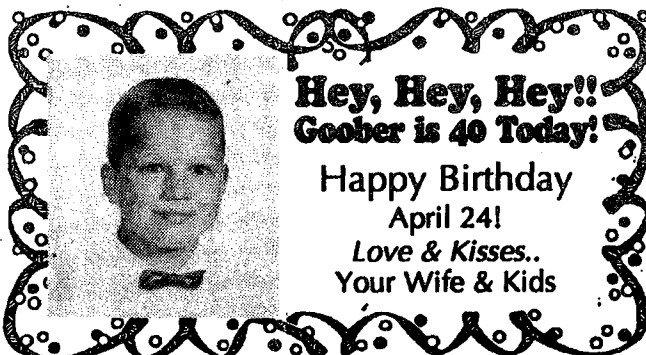
JKL:bap  
enclosures

**COMMUNITY OPEN HOUSE**

**ST. PETER'S LUTHERAN CHURCH**  
4125 - 18th St., Dorr

**SAT., APRIL 24 and**  
**SUN., APRIL 25 • 1-3 P.M.**

*Everyone Welcome — Refreshments Served*



**Hey, Hey, Hey!!**  
**Goober is 40 Today!**

**Happy Birthday**  
April 24!  
Love & Kisses..  
Your Wife & Kids

**COUNTRY WESTERN DANCE LESSONS**

Wednesday, April 21  
Wayland Classes start at 6:00

Contact Community Education  
Wayland 792-9153  
Instructors Denny & Terri Parker 795-3011

FREEZE • ACHY • BREAKY • HEART • SWING  
TWO STEP • WALTZ • SWAY • POLKA • TEN • STEP

# VILLAGE OF MARTIN ALLEGAN COUNTY, MICHIGAN

## NOTICE OF ADOPTION OF A NEW SEWER USE ORDINANCE

To: The residents and property owners of Village of Martin, Allegan County, Michigan, and any other interested persons:

PLEASE TAKE NOTICE that at a regular meeting held on the 12th day of April, 1993 the Village of Martin adopted a new Sewer Use Ordinance (being Ordinance No. 47). Said Ordinance is summarized below.

**ARTICLE I - PURPOSE AND SCOPE** - Sets forth the purpose, policy and objectives of the ordinance including establishing standards and rules for public and private sewers and to prevent the discharge of pollutants into the public owned treatment works (POTW); and establishes that the ordinance applies to any person owning or maintaining any private system.

**ARTICLE II - DEFINITIONS** - Provides specific definitions for various terms and words used within the ordinance.

**ARTICLE III - DISPOSAL OF SEWAGE AND WASTEWATER** - Sets forth general requirements applicable to the disposal of sewage and wastewater; the depositing of wastes upon public or private property; the need for NPDES permits regarding private sewage disposal systems; the requirement of private systems where public sewer is not available; the requirement of soil evaluation tests and permits to install a private system; the inspection of private sewage systems; the type, capacities and location of a private system; the operation and maintenance of a private system; the requirement for connection to the public sewer, if available; and that additional requirements may be applied where applicable.

**ARTICLE IV - BUILDING SEWERS AND CONNECTIONS** - Sets out that permits are required for connection to the system; the classes of building sewer connection permits; the costs, expenses and liabilities of the owner; that separate sewers are required for each building with certain exceptions; provides for existing buildings; provides applicable code provisions and regulations; requires that an approved means of lift be provided when the elevation is too low; prohibits connection of surface runoff or groundwater; requires that connection to the system conform to all applicable building and plumbing codes; requires inspection and connection; provides conditions of work for excavations; provides for interceptors; and provides for maximum capacity.

**ARTICLE V - EXTENSION TO SYSTEM** - Provides for extensions to the system;

**ARTICLE VI - DISCHARGE TO THE POTW; PROHIBITIONS, LIMITATIONS AND REQUIREMENTS** - prohibits discharges to storm sewers or natural outlet; prohibits general discharge of pollutant which cause interference; prohibits the discharge of any pollutant which will cause interference in the POTW; sets forth pretreatment standards and requirements; reserves the right of revision of this Ordinance; sets out that special agreements are not prevented by this Ordinance; prohibits dilution as a substitute for treatment; requires pretreatment prior to point of discharge; and authorizes the superintendent be in control of discharges to the POTW and provides for assessment of fines and penalties for violation hereof; provides for service of orders, and notices of violations and assessments; authorizes the superintendent to develop and implement a Control Authority Enforcement Response (CAER) Plan as required by 40 CFR 403.8(f) (5); requires the publication annually of a list of users which during the previous 12 months were in significant noncompliance with pretreatment standards or requirement; provides for judicial penalties of not more than \$500 and/or imprisonment not to exceed 90 days for violation of this Ordinance; provides for continuing offenses; sets forth that a violation of this Ordinance is a public nuisance; provides that the Village shall be reimbursed by any violator when the violation results in fines being levied against the Village; provides that tampering with sampling/monitoring devices is a violation of this Ordinance; states that the imposition of a single penalty, fine or order upon any person in violation of this Ordinance shall not preclude the imposition by the Village or City of a combination of any or all of those sanctions and remedies; and authorizes the superintendent to seek temporary or permanent injunctive relief to abate any nuisance under this Ordinance.

**ARTICLE VII - INDUSTRIAL WASTE CONTROL PROGRAM** - Provides that all non-domestic users must notify the Superintendent of the nature and characteristics of their wastewater; requires sampling of discharges to the POTW and lists minimum requirements; requires reporting and notice of pretreatment standards; requires industrial user permits and sets deadlines and requirements for such applications; provides for the confidentiality of any information submitted to the Village or City in the administration of this Ordinance; requires the retention and preservation of records, books and documents related to matters regulated by this Ordinance; sets forth minimum requirements for industrial users to respond to and report accident discharges to the POTW; provides that and upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all requirements of Section 10(b) below are met; prohibits bypass of industrial wastes from any portion of an industrial user's facility; sets out additional affirmative defenses; provides for review and approval of the design and installation of preliminary treatment plants;

**ARTICLE VIII - USER CHARGE SYSTEM** - Provides for the recovery of costs from users of the POTW by way of Readiness-to-Serve Charges, User Charges and surcharges; and provides the amounts to be charged under this Ordinance.

**ARTICLE IX - INDUSTRIAL COST RECOVERY SYSTEM (reserved)** - This section is reserved for future use.

**ARTICLE X - ADMINISTRATION AND ENFORCEMENT** - Provides that the operation, maintenance, alteration and management of the POTW shall be under the supervision and control of the WWTP superintendent; and further provides the powers of said superintendent including inspection and monitoring authority, authorization to issue orders, and notice of violation of any provision of this Ordinance;

**ARTICLE XI - ADMINISTRATIVE APPEALS - WASTEWATER BOARD OF APPEALS** - States that the City Council of the City of Plainwell will serve as the Wastewater Board of Appeals and further outlines the duties to said Board of Appeals; sets out the charges, penalties, fines and fees for violations; provides that the administrative action shall be deemed final unless an informal or formal hearing is demanded within the periods specified by this Article; provides that appeals from the determination of the Board of Appeals may be made to the Allegan County Circuit Court.

**ARTICLE XII - PROTECTION FROM DAMAGE** - Provides that no person shall willfully destroy, damage or tamper with the equipment belonging to the wastewater system.

**ARTICLE XIII - MUNICIPAL LIABILITY** - Provides that neither the Village nor the City shall be responsible for interruptions of service due to natural calamities, equipment failures or actions of the system users.

**ARTICLE XIV - SEVERABILITY** - Provides that if a section or clause of this Ordinance is found to be invalid, such invalidity shall not affect the validity of any other part of this Ordinance.

**ARTICLE XV - SAVING CLAUSE** - Provides that all prosecutions commenced prior to the effective date of this Ordinance shall be conducted under the Ordinance provisions in effect prior to the effective date of this Ordinance.

**ARTICLE XVI - CONFLICT WITH EXISTING ORDINANCES** - Provides that all ordinances or parts of ordinances, including Ordinance 37, in conflict herewith are repealed.

**ARTICLE XVII - EFFECTIVE DATE** - Provides that the effective date of this Ordinance shall be 20 days following adoption and publication of the same.

PLEASE TAKE FURTHER NOTICE that the full text of the ordinance has been posted in the office of the Village Clerk and in the following five public places within the Village for public examination within seven days preceding the publication of this notice.

1. J.C. Wheeler Library
2. Martin Post Office
3. First of America Bank
4. Martin Police Department
5. Carman Pharmacy

PLEASE TAKE FURTHER NOTICE that copies of said ordinance may be purchased or inspected at the office on the Village Clerk as set forth below during regular business hours of regular business days following the date of the within publication.

VILLAGE OF MARTIN  
Joyce Muriel, Clerk

VILLAGE OF MARTIN

ALLEGAN COUNTY, MICHIGAN

SEWER USE ORDINANCE NO. 47

Adopted: 4-12-93

Effective: 5-11-93

An ordinance to adopt a new sewer use ordinance, and to repeal the Village's existing sewer use ordinance, being Ordinance No. 37, as amended.

THE VILLAGE OF MARTIN

ORDAINS:

ARTICLE I

PURPOSE AND SCOPE

Sec. 1.01 PURPOSE, POLICY AND OBJECTIVES

This Ordinance shall be known and cited as "The Village of Martin Sewer Use Ordinance".

This Ordinance is intended to accomplish the following primary purposes, policies and objectives:

- (a) To establish standards, rules, and regulations with respect to the use of public and private sewers and drains, private sewage disposal, and use of the POTW.
- (b) To prevent the discharge of pollutants into the POTW which do not meet applicable pretreatment standards and requirements; which would interfere with the operation of the POTW; which would pass through the POTW; which would inhibit or disrupt the POTW's processing, use or disposal of sludge; or which would result in a violation of the Village's NPDES permit or of other applicable laws and regulations.
- (c) To regulate the discharge of wastewater to the POTW through the issuance of permits and through other means of enforcement of the requirements of this Ordinance.
- (d) To authorize and require all inspection, monitoring, reporting and enforcement activities as necessary to insure compliance with applicable pretreatment standards and requirements and other applicable laws and regulations.

- (e) To provide for a system of charges for connection to and use of the POTW which equitably distributes the costs of the POTW system.

Sec. 1.02        SCOPE

This Ordinance shall apply to persons within the Village of Martin. This Ordinance shall also apply to any person owning, using, constructing or maintaining any private system or facility intended or used for the disposal of sewage or wastewater within the Village.

ARTICLE II

DEFINITIONS

Sec. 2.01        DEFINITIONS

The word SHALL is mandatory; MAY is permissive.

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

ACCIDENTAL DISCHARGE shall mean any discharge that could result in potential problems at the POTW Treatment Plant and includes the following: (1) an Upset in operation which places the Industrial User in a temporary state of noncompliance; (2) a chemical spill to floor drains or which will otherwise enter the wastewater treatment system; or (3) a discharge including slug loading that could cause treatment system problems.

"BOD" (BIOCHEMICAL OXYGEN DEMAND) shall mean the quantity of oxidation of organic matter under standard laboratory procedure in 5 days at 20 degrees Centigrade, expressed in milligrams per liter.

BUILDING DRAIN shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning 5 feet outside the inner face of the building wall.

BUILDING SEWER shall mean the extension from the building drain to the public sewer or other place of disposal.

BYPASS shall mean the intentional diversion of waste streams from any portion of an Industrial User's treatment facility.

CFR shall mean the Code of Federal Regulations, as amended as of July 24, 1990.

"COD" (CHEMICAL OXYGEN DEMAND) shall mean the total quantity of oxygen required for oxidation of a waste to carbon dioxide and water, expressed in milligrams per liter.

CATEGORICAL PRETREATMENT STANDARDS shall mean a national pretreatment standard promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the FWPCA which specifies quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW by Industrial Users in specific industrial subcategories.

CHLORINE DEMAND shall mean the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

CITY shall mean the City of Plainwell.

CLASSES OF USERS shall mean the division of sanitary sewer works customers into classes by similar process or discharge flow characteristics, as follows:

Residential User shall mean an individual home or dwelling unit, including mobile homes, apartments, condominiums or multi-family dwellings.

Commercial User shall mean any retail or wholesale business engaged in selling merchandise or a service.

Institutional User shall mean any educational, religious, or social organization such as a school, church, nursing home, or other institutional use.

Governmental User shall mean any federal, state or local government office or government service facility.

Industrial User shall mean any manufacturing establishment which produces a product from raw or purchased material. This category shall also refer to any nongovernmental user of publicly owned treatment works identified in the Standard Industrial Classification Manual, 1972, under Divisions A, B, D, E, or I, excluding those users already identified in one of the other user classes. A user may also be excluded from the "Industrial User" class if it is determined that such user will discharge only segregated domestic strength wastes, or wastes from sanitary conveniences.

COMBINED SEWER shall mean a sewer receiving both surface run-off and sewage.

**COMMERCIAL** shall mean of or pertaining to any retail or wholesale business engaged in selling merchandise or a service.

**COMPATIBLE POLLUTANT** shall mean biochemical oxygen demand, suspended solids, pH and fecal coliform bacteria, and any additional pollutants identified in the POTW's NPDES permit, if the treatment works is designed to treat the pollutants and is generally able to remove approximately eighty percent (80%) or more of the pollutants.

**COMPOSITE SAMPLE** means a series of representative samples taken over a specific time period and combined into a single sample.

**CONTROL AUTHORITY ENFORCEMENT RESPONSE PLAN or CAER PLAN** shall mean the plan prepared by the City as required by 40 CFR 403.8(f)(5) which describes how the POTW will investigate and respond to instances of non-compliance and the types of escalated enforcement actions the POTW will take in response to violations of applicable standards and requirements.

**DAILY AVERAGE** shall mean the sum of the concentrations of a constituent for the measurement period divided by the number of days in the measurement period. The concentrations which are added are single numbers for single days for all days for which analyses are obtained (whether by the User or the City), but the concentrations may be based upon a sample or samples taken over either all or part of that day and upon single or multiple analyses for that day as determined by the City. Sampling for Daily Average shall be 24-hour flow proportioned composite samples, except that a minimum of four (4) grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for a single day for ph, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of 4 grab samples may be used in lieu of the flow proportioned composite sample if the User demonstrates to the WWTP Superintendent that representative samples will be obtained.

**DAILY MAXIMUM** shall mean the concentration which shall not be exceeded on any single calendar day. Sampling for Daily Maximum shall be a 24-hour flow proportioned composite sample except that a minimum of 4 grab samples shall be taken in lieu of a 24-hour flow proportioned composite sample for ph, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. If it is not feasible to obtain a flow proportioned composite sample, a time proportioned composite sample or a minimum of 4 grab samples may be used in lieu of the flow proportioned composite sample if the User demonstrates to the WWTP Superintendent that a representative sample will be obtained.

DISCHARGE shall mean the introduction of wastewater or pollutants into the POTW, whether intentional or unintentional, and whether direct or indirect.

DOMESTIC USER shall mean a User that discharges only segregated normal strength domestic wastes or wastes from sanitary conveniences into the POTW.

"EPA" shall mean the United States Environmental Protection Agency.

"FWPCA" shall mean the Federal Water Pollution Control Act (also known as the Clean Water Act) as amended, 33 U.S.C. 1251, et seq.

FACILITY UNIT is a flow unit based upon the equivalent sewage flow generated from a single family residence, as established by resolution of the City Council of Plainwell.

GARBAGE shall mean solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce. To be considered "properly shredded" for purposes of this ordinance, garbage must be shredded to the degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particles greater than 1/2 inch in dimension.

GRAB SAMPLE is a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

HAZARDOUS WASTE shall mean any substance discharged or proposed to be discharged into the POTW, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261 Sec. 26.

"INCOMPATIBLE POLLUTANT" shall mean any pollutant that is not a compatible pollutant.

INDUSTRIAL COST RECOVERY shall mean the recovery from each industrial user, as defined, that portion of the U.S. Environmental Protection Agency grant which is allocable to the treatment of industrial wastes from said industries. The Industrial Cost Recovery Charge is further defined in this Ordinance.

INDUSTRIAL USER shall mean the same as non-domestic User. The term Industrial User may also be used to refer to a manufacturing establishment which produces a product from raw or purchased material, as distinct, for example, from a residential or commercial User.



**INDUSTRIAL USER PERMIT** shall mean a permit issued to Industrial Users by the WWTP Superintendent as provided by this Ordinance to control the discharge of wastewater to the POTW and to ensure compliance with applicable pretreatment standards and requirements.

**INDUSTRIAL WASTES** shall mean the liquid wastes from industrial, manufacturing, trade or business processes as distinct from segregated normal strength domestic wastes, or wastes from sanitary conveniences.

**INFILTRATION** shall mean any waters entering the system from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include and is distinguished from inflow.

**INFILTRATION/INFLOW** shall mean the total quantity of water from both infiltration and inflow.

**INFLOW** shall mean any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

**INSTITUTION** shall mean any educational, religious, or social organization, such as a school, church, nursing home, or other similar organization.

**INTERFERENCE** shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the FWPCA; the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as RCRA, and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA); the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**NATURAL OUTLET** shall mean any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**NEW SOURCE** shall mean any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section

307(c) of the Federal Water Pollution Control Act which will be applicable to the source if pretreatment standards are thereafter promulgated in accordance with that section, provided that:

- (a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- (c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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

Commencement of construction of a new source shall be determined in a manner consistent with 40 CFR 403.3(k)(3).

NON-DOMESTIC USER shall mean any User other than a domestic User.

NORMAL STRENGTH DOMESTIC SEWAGE shall mean a sanitary wastewater flow containing an average daily BOD of not more than 200 mg/l or an average daily suspended solids (SS) concentration of not more than 250 mg/l.

"NPDES PERMIT" shall mean a permit issued pursuant to the National Pollution Discharge Elimination System for the discharge of wastewater into the waters of the state.

OPERATION AND MAINTENANCE COST shall mean all costs, direct and indirect, including replacement costs, necessary to insure adequate wastewater treatment on a continuing basis, conform with all related federal, state, and local requirements, and assure optional long-term facility management. Operation and maintenance costs do not include expenditures required to retire debts resulting from capital costs of construction.

PASS THROUGH shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON shall mean any individual, firm, company, association, society, corporation, unit of local government, government agency, or group.

"pH" shall mean the logarithm of the reciprocal of the concentration of hydrogen ions in grams per liter of solution.

POLLUTANT shall mean any material which is discharged to the POTW or is proposed for discharge to the POTW. The term also includes properties of materials, including, but not limited to, pH and heat.

"POTW" (PUBLICLY OWNED TREATMENT WORKS) shall mean the treatment works, as defined by applicable provisions of the CFR and the FWPCA, that is owned by the City, including any devices, processes and systems used in the storage, treatment, recycling or reclamation of wastewater, sewage or sludge, as well as sewers, pipes and other conveyances used to collect or convey wastewater or sewage to the treatment works. The term "POTW" shall also include any sewers that convey wastewaters to the Village's POTW from persons outside the City who are, by contract or agreement with the City, Users of the Village's POTW. The term "POTW" may also be used in this Ordinance to refer to the City or its authorized representatives.

POTW TREATMENT PLANT shall mean that portion of the POTW which is designed to provide treatment (including recycling or reclamation) of sewage and industrial waste.

PREMISES shall mean a lot or parcel of land, or a building or structure, having any connection, direct or indirect, to the POTW, or from which there is a discharge to the POTW.

PRETREATMENT shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or instead of discharging or otherwise introducing the pollutants into the POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited by 40 CFR 403.6(d) and (e).

PRETREATMENT REQUIREMENT shall mean any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on an Industrial User.

PRETREATMENT STANDARD shall mean any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Section 307(b) and (c) of the FWPCA which applies to Industrial Users, including prohibitive discharge limits established under 40 CFR 403.5.

PUBLIC SEWER shall mean a sewer in which all owners of abutting properties have equal rights, and which is controlled by public authority. Public Sewer shall mean the main sewer line exclusive of sewer leads. Sewer leads shall be considered to be part of the "Building Sewer".

"RCRA" shall mean the federal Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.

REPLACEMENT COSTS shall mean necessary expenditures made during the service life of the treatment works to replace equipment and plant appurtenances required to maintain the intended performance of the treatment works.

RESIDENTIAL shall mean of or pertaining to individual homes or dwelling units, including mobile homes, apartments, condominiums, single-family dwellings or multi-family dwellings.

SANITARY SEWER shall mean a sewer which carries sewage and to which storm water, surface water, and groundwater are not intentionally admitted.

SEVERE PROPERTY DAMAGE shall mean substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a Bypass. Severe property damage does not mean economic loss caused by delays in production.

SEWAGE shall mean a combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with any groundwater, surface water, and storm water that may be present.

SEWAGE TREATMENT PLANT shall mean the POTW Treatment Plant.

SEWAGE WORKS shall mean the POTW.

SEWER shall mean a pipe or conduit for carrying sewage.

SIGNIFICANT INDUSTRIAL USER shall mean (1) any Industrial User subject to categorical pretreatment standards; or (2) any other Industrial User that (a) discharges to the POTW an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater), (b) contributes a process waste stream which makes up 5% or more

of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or (c) is designated by the Superintendent as a significant Industrial User on the basis that the Industrial User has a reasonable potential to adversely affect the operation of the POTW or to violate any pretreatment standard or requirement. The WWTP Superintendent may determine that a User which meets the criteria of this Section is not a Significant Industrial User if the Superintendent finds that the User has no reasonable potential to adversely affect the operation of the POTW or to violate any pretreatment standard or requirement.

**SIGNIFICANT NON-COMPLIANCE** shall mean a violation (or group of violations) of applicable pretreatment standards or requirements or any other action (or failure to act) by an Industrial User which meets the criteria set forth in Section 9 of Article X, or which will otherwise adversely affect the operation or implementation of the Village's pretreatment program as determined by the WWTP Superintendent.

**SLUG LOADING** shall mean (1) any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds more than 5 times the average 24-hour concentration or quantity of flow during normal operation, for any period longer than 15 minutes; or (2) any pollutant released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW; or (3) any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

**STORM DRAIN** (sometimes termed "storm sewer") shall mean a sewer which is intended to carry only storm water, surface runoff, and drainage water which is not wastewater.

**SUPERINTENDENT** shall mean the Superintendent of Sewage Works of the City of Plainwell, or his authorized deputy, agent, or representative.

**SURCHARGE** means an extra charge to reimburse the City for any costs, direct or indirect, incurred by the City, or imposed upon the City, in handling or treating a discharge which exceeds the applicable discharge limitations.

**SUSPENDED SOLIDS ("SS")** shall mean solids that either float on the surface of, or are in suspension in, water, sewage, or other liquids, and which are removed by laboratory filtering.

**TOXIC POLLUTANT** means any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment, including those listed as toxic in regulations promulgated by the administrator of the U.S. EPA under the provisions of Section 307(a) of the FWPCA.

UPSET shall mean an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

USER shall mean any person who discharges into the POTW or any municipality whose collection system discharges into the POTW.

USER CHARGE shall mean the charge levied on all Users of the treatment works for the cost of operation and maintenance, including replacement of the treatment works.

VILLAGE shall mean the Village of Martin in Allegan County, State of Michigan.

WWTP SUPERINTENDENT or SUPERINTENDENT shall mean the Wastewater Treatment Plant Superintendent of the City of Plainwell, or an authorized deputy, agent, or representative.

WASTEWATER shall mean water or sewage discharged to the POTW by a User.

WATERCOURSE shall mean a channel in which a flow of water occurs, either continuously or intermittently.

### ARTICLE III

#### DISPOSAL OF SEWAGE AND WASTEWATER

This Article provides the general requirements applicable to the disposal of sewage and wastewater by all persons within the Village, including the installation and operation of private sewage disposal and treatment facilities, and the connection of building sewers to the public sewers.

##### Sec. 3.01 DEPOSITING WASTES UPON PUBLIC OR PRIVATE PROPERTY

It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner upon public or private property within the Village of Martin, or in any area under the jurisdiction of the Village, any human or animal excrement, garbage, or other objectionable waste.

##### Sec. 3.02 SEWAGE AND WASTEWATER DISCHARGES.

Unless otherwise expressly permitted by applicable laws or regulations or authorized by the issuance of an NPDES permit:

- (a) It shall be unlawful to discharge polluted sewage or wastewater to any natural outlet within the Village or in any area under the jurisdiction of the Village, either directly or through a Village storm sewer.
- (b) It shall be unlawful to discharge unpolluted water of any kind, including without limitation, storm water, drainage water, industrial non-contact cooling water or process waters, except to sewers that are specifically designated as combined sewers or storm sewers; or to any natural outlet, either directly or through a City storm sewer.

Sec. 3.03      PRIVATE SEWAGE DISPOSAL SYSTEMS

Except as provided by this Ordinance, it shall be unlawful to construct or maintain within the Village any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage or wastewater.

Sec. 3.04      PRIVATE SYSTEM REQUIRED IF PUBLIC SEWER NOT AVAILABLE

All houses, buildings, or properties which are required by law to have sanitary or industrial wastewater facilities, and which are located where the POTW is not available or required as provided by Section 9 of this Article, shall be equipped at the owner's expense with suitable wastewater facilities connected to a private wastewater disposal system which complies with the requirements of this Article and with all applicable state and county health and sanitation requirements.

Sec. 3.05      SOIL EVALUATION TEST; PERMIT REQUIRED TO INSTALL AND OPERATE PRIVATE SYSTEM

Before commencement of a private sewage disposal system, the owner shall first apply to the Allegan County Health Department for a soil evaluation test. The fee shall be determined by the Allegan County Health Department, and shall be paid by the property owner to the Allegan County Health Department. If the soil evaluation test shows positive results, the property owner may apply for a permit of to install and operate the proposed sewage system. The owner shall include plans, specifications and other information as deemed necessary by the Allegan County Health Department, and shall pay any additional fees required.

Sec. 3.06      INSPECTION OF PRIVATE SEWAGE SYSTEMS REQUIRED

A permit to operate a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Allegan County Health Department. No permit shall be issued for any private sewage disposal system employing

subsurface soil absorbtion facilities where the area of the lot is less than 7,800 square feet. The County Health Department shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Allegan County Health Department when the work is ready for final inspection, and before any underground portions are covered. The inspection shall be made within 7 days of the receipt of notice by the Allegan County Health Department. All persons receiving a permit for a private sewer disposal system shall provide the City Administrator and the Village with copies of all final approved inspection reports issued by the Allegan County Health Department.

**Sec. 3.07      TYPE, CAPACITIES, LOCATION AND LAYOUT**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the Allegan County Health Department. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

**Sec. 3.08      OPERATION AND MAINTENANCE**

The owner shall operate and maintain the private sewage disposal facilities in full compliance with all applicable laws and regulations and in a sanitary manner at all times, and at no expense to the Village.

**Sec. 3.09      CONNECTION TO PUBLIC SEWER REQUIRED IF AVAILABLE;  
TIME LIMIT**

- (a) The owner of any house, building, or property used for human occupancy, employment, recreation, or other purposes, situated within the Village, and abutting on any street, alley or right-of-way in which there is now located, or may in the future be located, a public sanitary or combined sewer of the Village, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect the facilities directly with the proper public sewer in accordance with the provisions of this Ordinance. Connection with the public sewer under this Section shall be required within 6 months after the date of official notice to connect, if the public sewer is within 200 feet of the house, building or property from which sanitary sewage emanates, or if required by the Allegan County Health Department.
- (b) Any septic tanks, cesspools, or similar wastewater disposal facilities which are abandoned or discontinued as required by this Section shall, within 3 months of being connected to the public sewer, be emptied of



wastes and filled with clean gravel, dirt or other suitable material to prevent collapse.

Sec. 3.10      ADDITIONAL REQUIREMENTS

No statement contained in this Section shall be construed to interfere with any additional requirements that may be imposed by the Village or other applicable authorities.

ARTICLE IV

BUILDING SEWERS AND CONNECTIONS

Sec. 4.01      BUILDING SEWER CONNECTION PERMIT REQUIRED

No unauthorized person shall uncover, use, alter, disturb, or make any connections with or opening into any public sewer or appurtenance thereof without first obtaining a written building sewer connection permit from the Village.

Sec. 4.02      CLASSES OF BUILDING SEWER CONNECTION PERMITS; APPLICATION

There shall be 2 classes of building sewer connection permits, as follows: Class I, for residential and commercial service; and Class II, for service to establishments producing industrial wastes. In either case, the owner or the owner's agent shall notify the Village and apply on a form furnished by the City and pay the permit and inspection fee required by this Section at the time the application is submitted. The permit application shall be supplemented by any plans, specifications, or other information considered necessary in the judgment of the City Administrator to administer this Article. The Village recognizes that the permit and inspection fees for building sewer connection permits shall be as determined from time to time by resolution of the City Council in an amount sufficient to reimburse the City for administrative costs, review of plans and specifications and field inspections. The City may deny a building sewer connection permit if the application for the permit shows that anticipated discharges will be harmful to the POTW or storm sewer, will violate the provisions of this Ordinance, or in any other way will hamper the operation of the POTW or storm sewer.

Sec. 4.03      COSTS, EXPENSES AND LIABILITY

All costs, expenses and liability incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify and save harmless the Village and City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

**Sec. 4.04      SEPARATE SEWER FOR EVERY BUILDING; EXCEPTION**

A separate independent building sewer shall be provided for every building. However, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, if the extension conforms with the adopted plumbing code standards. Neither Village or the City assumes any responsibility for damage caused by or resulting from any single building sewer which serves more than one building.

**Sec. 4.05      EXISTING BUILDING SEWERS**

Existing building sewers may be used in connection with new buildings only when they are found, on examination and test by the Plumbing Inspector, or an authorized representative, to meet all requirements of this Ordinance and applicable plumbing code standards.

**Sec. 4.06      APPLICABLE CODE PROVISIONS, REGULATIONS**

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing codes, or other applicable rules and regulations of the Village or City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the American Society for Testing Materials (A.S.T.M.) and the Water Pollution Control Federation (W.P.C.F.) shall apply.

**Sec. 4.07      ELEVATION**

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by the building drain shall be lifted by an approved means and discharged to the building sewer at the expense of the owner.

**Sec. 4.08      CONNECTION OF SURFACE RUNOFF OR GROUNDWATER PROHIBITED**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

**Sec. 4.09            CONNECTION INTO PUBLIC SEWER**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the Village and City, or the procedures set forth in appropriate specifications, which shall require that the connections shall be made gas-tight and water-tight and shall be verified by proper testing. Any deviation from the prescribed procedures and materials must be approved in writing by the Plumbing Inspector, or an authorized representative, before installation.

**Sec. 4.10            INSPECTION AND CONNECTION**

The applicant for the building sewer connection permit shall notify the Plumbing Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the Plumbing Inspector, or an authorized representative.

**Sec. 4.11            EXCAVATIONS; CONDITIONS OF WORK**

All excavating for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the Superintendent of Public Works.

**Sec. 4.12            INTERCEPTORS**

Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent and Plumbing Inspector, and shall be located as to be readily and easily accessible for cleaning and inspection.

**Sec. 4.13            CAPACITY**

No connections to the public sewer will be allowed unless there is capacity available, as determined by the WWP Superintendent, in downstream sewers, pump stations, interceptors, force mains and treatment plant, including capacity for BOD and suspended solids in the treatment plant.

## **ARTICLE V**

### **EXTENSION TO SYSTEM**

#### **Sec. 5.01      EXTENSIONS**

The Village may extend public sewers under any of the following circumstances:

- (a) After approval of the Village Council following a public hearing, the Village may extend sewers to complete or expand the existing sanitary sewer system to protect the health, safety and welfare of its citizens. Property owners may be assessed in accordance with an adopted special assessment ordinance.
- (b) At the request of citizens for the Village to extend the sewer, by petition containing the signatures of a majority of the property owner along both sides of the fronting road.
- (c) At the request of a private developer for the Village to extend public sewers to and through the property of the developer, if the developer advances to the Village the total costs of the project as estimated and approved by the Village Engineer. Applicable facility units shall be paid at the time of connection to the sewer. If there are properties that will benefit from the extension of the sewer, the contractor may be refunded accordingly per contractual agreement.
- (d) At the request of a municipality adjacent to the Village to extend the sewer, provided a signed contractual agreement has been made between the Village and the governmental unit making the request.

## **ARTICLE VI**

### **DISCHARGE TO THE POTW PROHIBITIONS, LIMITATIONS AND REQUIREMENTS**

#### **Sec. 6.01      UNPOLLUTED DISCHARGES TO STORM SEWERS OR NATURAL OUTLET**

Storm water and all other unpolluted drainage, industrial non- contact cooling water or unpolluted process waters shall be discharged to sewers that are specifically designated as combined sewers or storm sewers, or to a natural outlet, but only as permitted by applicable laws and regulations and subject to obtaining any required NPDES permit and other required approvals.

**Sec. 6.02**

**GENERAL DISCHARGE PROHIBITIONS**

No User shall discharge or cause to be discharged into the POTW any pollutant which causes pass through or interference. This general prohibition, and the specific discharge prohibitions in Section 3 of this Article shall apply to every User whether or not the User is subject to other pretreatment standards or requirements.

**Sec. 6.03**

**SPECIFIC DISCHARGE PROHIBITIONS**

Except as specifically provided below or as otherwise expressly limited by this Ordinance, by an Industrial User Permit, or by Special Agreement between the City and a User, a User shall not discharge or cause to be discharged into the POTW any of the following pollutants:

- (a) Any pollutant, including oxygen demanding pollutants released in a discharge at a flow rate and/or pollutant concentration which will cause interference in the POTW.
- (b) BOD-5 in excess of 200 mg/l.
- (c) COD in excess of 450 mg/l.
- (d) Chlorine demand in excess of 15 mg/l.
- (e) Total phosphorus in excess of 11 mg/l, provided that any discharge in excess of 5 mg/l shall be subject to the imposition of a surcharge.
- (f) Color, as from, but not limited to, dyes, inks, and vegetable tanning solution, shall be controlled to prevent light absorbency which would interfere with treatment plant processes or that prevent analytical determinations.
- (g) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21.
- (h) Garbage not properly shredded.
- (i) Grease, oils, wax, fat, whether emulsified or not, in excess of a daily average of 50 mg/l, or other substances which may solidify or become viscous at temperatures between 32 degrees Fahrenheit and 150 degrees Fahrenheit.

- (j) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (k) Pollutants in concentrations which exceed those listed below or any other metallic compounds in sufficient quantity to impair the operations of the sewage treatment processes:

|                     |             |
|---------------------|-------------|
| Cadmium             | 0.500 mg/l  |
| Total Chromium      | 2.000 mg/l  |
| Hexavalent Chromium | 0.100 mg/l  |
| Copper              | 1.000 mg/l  |
| Cyanide             | 0.100 mg/l  |
| Iron                | 75.000 mg/l |
| Lead                | 0.400 mg/l  |
| Mercury             | 0.010 mg/l  |
| Nickel              | 1.000 mg/l  |
| Phenol              | 1.000 mg/l  |
| Tin                 | 3.000 mg/l  |
| Zinc                | 3.000 mg/l  |

- (l) Inert suspended solids (including, but not limited to, Fuller's earth, lime slurries, and lime residues) or dissolved solids (including, but not limited to, sodium chloride and sodium sulfate) in unusual concentrations.
- (m) Insoluble, solid, or viscous substances, (including, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, tar, feather, plastics, wood, hair, fleshings, and similar substances) in sufficient quantity to impair the operations of the sewage treatment process, to cause obstruction to the flow in the POTW, or otherwise result in interference.
- (n) Any noxious or malodorous gases, liquids or solids (including, but not limited to, hydrogen sulfide, sulphur dioxide, or oxides of nitrogen, and other substances) which either singly or by interaction are capable of creating a public nuisance.
- (o) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (p) Pollutants which will cause corrosive structural damage to the POTW, but in no case discharges with pH less than 6.5 or greater than 9.5.
- (q) Radioactive wastes or isotopes of a half-life or concentration which may exceed limits established by applicable state and federal regulations.

- (r) Suspended solids in excess of 250 mg/l.
- (s) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 104 degrees Fahrenheit (40 degrees Centigrade). No discharge to the POTW shall have a temperature less than 32 degrees Fahrenheit or greater than 150 degrees Fahrenheit.
- (t) Any substance which interferes with operation of the POTW Operations of the sludge management program and/or passes through the POTW and results in a violation of the City NPDES permit or applicable effluent or river standards.
- (u) Any pollutant that results in excess foaming during the treatment process. Excess foaming is any foam which, in the opinion of the Superintendent, is a nuisance in the treatment process.
- (v) Any trucked wastes or hauled pollutants.
- (w) Any unpolluted water, non-contact cooling water, storm water, surface water, groundwater, roof runoff or subsurface drainage, except as otherwise expressly permitted by applicable law or regulation.

Sec. 6.04

PRETREATMENT STANDARDS AND REQUIREMENTS

- (a) The categorical pretreatment standards when finalized for specific industries shall become a part of the requirements of this ordinance in accordance with federal and state laws and regulations. A User shall comply with all categorical pretreatment standards and any other pretreatment requirements established under the FWPCA that are applicable to that User. If specific parameter levels established by this ordinance are more restrictive than an equivalent federal or state requirement, the more restrictive parameter level established by this ordinance shall apply.
- (b) Where federal categorical standards are expressed in terms of mass of pollutants per unit or production, the City may elect to convert these limits to equivalent limitations expressed as either a mass of pollutant discharged per day or an effluent concentration. Equivalent discharge limits calculated in accordance with federal regulations (40 CFR 403.6) shall be deemed pretreatment standards and enforceable as pretreatment standards. Any Industrial User subject to equivalent mass or concentration limits calculated from a

production based standard that does not notify the WWTP Superintendent of significant changes in production levels as required by 40 CFR 403.6(c)(7) shall be required to meet the applicable mass or concentration limits that were based on the original estimate of the long term production rate.

- (c) A User may apply to the Superintendent for an adjustment in a categorical pretreatment standard to reflect the presence of pollutants in the User's intake water in accordance with 40 CFR 403.15. In the event that adjustment is made, the adjusted categorical pretreatment standard shall apply, provided the adjustment will not result in interference or pass through.
- (d) A new source shall install and have in operating condition, and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards and requirements before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards and requirements.

#### Sec. 6.05      RESERVED RIGHT OF REVISION

Future conditions imposed on the Village by other government agencies may require subsequent amendment of this Ordinance by the Village. If federal pretreatment standards require limits on parameters not covered in this Ordinance or limits more stringent than those specified in this Ordinance, the federal limits shall control and shall be complied with within the time period provided by 40 CFR 403.6(b). The Village reserves the right to establish more restrictive prohibitions, limitations or requirements for discharges to the POTW as necessary to prevent interference, pass through, to protect the POTW, to comply with applicable federal or state laws or regulations, to comply with the POTW's NPDES permit, or otherwise as determined necessary by the WWTP Superintendent.

#### Sec. 6.06      SPECIAL AGREEMENTS

Nothing in this Ordinance shall be construed as preventing a Special Agreement between the Village, the City and any User (which may be in the form of a Industrial User Permit or other form as determined by the Superintendent). The special arrangements may include, but are not limited to, pollutant concentration discharge limitations different than those provided in this Article. Neither the Village nor the City shall not be obligated to enter into a Special Agreement, but may do so in its discretion. A Special Agreement shall not create any vested rights or property rights for the User. The Special Agreement



may be terminated or modified at will by the Village. As a condition to the issuance of or entry into a Special Agreement, the Village shall require the User to sign an acknowledgement and acceptance of the provisions of this Section. A Special Agreement or arrangement may contain provisions for the User to pay a surcharge to the City. A violation of the terms of a Special Agreement shall be a violation of this Ordinance. No Special Agreement shall be entered into which, in the opinion of the Superintendent, has the potential to cause or result in a discharge which violates applicable pretreatment standards or the discharge prohibitions established by this Ordinance; to cause or result in pass through or interference; or to endanger municipal employees or the public.

Sec. 6.07 DILUTION PROHIBITED AS SUBSTITUTE FOR TREATMENT

Except where expressly authorized to do so by an applicable pretreatment standard or requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a federal or local standard or limitation.

Sec. 6.08 PRETREATMENT REQUIRED PRIOR TO POINT OF DISCHARGE

The prohibitions and limitations provided by this Article or as set forth in an Industrial User Permit or Special Agreement shall apply at the point where wastewater and pollutants are discharged or caused to be discharged into the POTW and any required pretreatment shall be effected before that point of discharge is reached.

Sec. 6.09 AUTHORITY FOR CONTROL OF DISCHARGES TO THE POTW

If any User discharges, or proposes to discharge wastewaters or pollutants to the POTW which are prohibited or limited by this Ordinance, the Superintendent may take any action as authorized by this Ordinance or other applicable law or regulation to assure and require compliance with the provisions of this Ordinance, including, without limitation, the issuance of Orders, the imposition of Surcharges, and the assessment of fines and penalties.

ARTICLE VII

INDUSTRIAL WASTE CONTROL PROGRAM

Sec. 7.01 NOTICE OF INTENT TO DISCHARGE REQUIRED

This Article shall apply to all non-domestic Users of the POTW. Prior to commencing any discharge to the POTW, all non-domestic Users must notify the WWTP Superintendent of the nature

and characteristics of their wastewater. This notification shall be made on forms prepared by the Superintendent for that purpose. Any non-domestic User discharging to the POTW as of the effective date of this Ordinance shall submit the information required by this section to the Superintendent within 90 days of the effective date of this ordinance. Based on the information received from the User, the Superintendent shall determine whether the User will be considered a Significant Industrial User for purposes of this Ordinance.

Sec. 7.02      SAMPLING, ANALYSIS AND MONITORING

Unless expressly provided otherwise for a particular Industrial User by an Industrial User Permit, Special Agreement, or Order issued pursuant to this Ordinance, all Users shall sample, monitor and analyze their discharges to the POTW according to the following minimum requirements:

- (a) Sampling and Analytical Techniques and Procedures. All sampling, measurements, tests, and analyses of the characteristics of discharges to the POTW shall be performed in accordance with the most current edition of "Standard Methods for the Examination of Water and Wastewater" (published by the American Public Health Association), the most current American Society for Testing Material (ASTM) procedures, and procedures approved by the U.S. EPA contained in 40 CFR Part 136. If the WWTP Superintendent determines that these sampling and analytical techniques are not available or do not apply to the discharge or pollutants in question, sampling and analysis shall be performed using validated sampling and analytical methods and procedures approved by the WWTP Superintendent.
- (b) Sampling Frequency. Users shall sample their discharges to the POTW at a frequency necessary to assess and assure compliance with the requirements of this Ordinance, any permit or Order issued pursuant to this Ordinance, all applicable pretreatment standards and requirements, other applicable state and federal laws and regulations, or as otherwise determined necessary by the WWTP Superintendent consistent with the purposes and intent of this Ordinance. At a minimum, all Users shall sample their effluent 2 times per year and report the results to the WWTP Superintendent. Each discharge point to the POTW shall be sampled and reported individually.
- (c) Sample Types. Where representative samples are required to be taken, a User shall take a minimum of 4 grab samples for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other

pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques. The WWTP Superintendent may waive flow-proportional composite sampling for any User that demonstrates to the satisfaction of the Superintendent that flow-proportional sampling is infeasible. If flow-proportional sampling is waived, samples may instead be obtained through time-proportional composite sampling techniques, or through a minimum of 4 grab samples if the User demonstrates that this will provide a representative sample of the effluent being discharged.

- (d) Approval of Sampling Methods, Equipment and Location Required. Users shall submit a written description of the specific sampling method, sampling equipment, and sampling location to the WWTP Superintendent for approval by the Superintendent. Users discharging as of the effective date of this Ordinance shall obtain approval within 90 days of that effective date. For new sources, approval shall be obtained prior to commencement of the discharge.
- (e) Costs of Sampling and Analyses. Samples shall be taken and analyzed at the sole cost of the User.
- (f) Self-monitoring. Except as otherwise provided by this Ordinance, self-monitoring shall be conducted by each User to insure compliance with all applicable requirements of this Ordinance and other applicable laws and regulations. A User performing its own sampling shall submit the samples for analysis to a laboratory (which may include the User's own laboratory) approved by the POTW. If the User uses its own laboratory for the analysis, the User shall send a split sample to an independent laboratory at least quarterly as a quality control check. If a User performs its own sampling and analysis, the POTW may also take and cause to be analyzed up to 4 daily composite samples or up to 4 grab samples per day, for up to 4 days in any calendar month, at the sole cost of the User. A User performing its own sampling shall record the date when a sample is taken, start time, stop time, sample location, sampler programming information, and persons involved in the sampling. If sampling performed by a User indicates a violation, the User shall notify the Superintendent within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within 30 days after becoming aware of the violation.

- (g) Sampling and Analyses Performed by POTW. The sampling and analysis required by this Ordinance may be performed by the POTW in lieu of the User, as determined necessary by the WWTP Superintendent. The City shall provide the User with copies of analytical results prepared by the POTW. If the POTW performs the required sampling and analysis for a User, the User shall pay a sampling fee to the POTW to fully reimburse the City for the sampling, including administrative and overhead costs. The POTW may contract with an independent firm to perform the sampling and analysis and the User shall fully reimburse the City for amounts paid by the POTW to the firm.
- (h) Split Samples. If requested, the POTW shall be provided with splits of any sample taken by a User. A User shall be provided with splits of any sample taken by the POTW if the User requests a split sample within 14 days after the sample is taken. If possible, split samples shall be provided at the time the sample is taken.
- (i) Maintenance, Repair and Calibration of Equipment. A User who is performing self-monitoring, or the City if performing sampling and monitoring in lieu of a User, shall contract with an independent company to maintain, repair, and calibrate the sampling and flow measurement equipment and instruments used to monitor the User. The maintenance, repair, and calibration shall be performed as often as necessary to ensure that monitoring data is accurate and representative. The City, in any event, may inspect and test a User's flow meters at reasonable times.
- (j) Required Sampling Structures and Devices. The POTW may require any User to install at each discharge point a suitable control structure (such as a manhole or sampling vault) and necessary measuring and sampling devices to facilitate the observation, sampling, and measurement of the quantity, composition, and concentrations of discharges to the POTW. The structure and devices shall be constructed and installed at the User's expense in accordance with plans submitted to the WWTP Superintendent, and shall be maintained by the User so as to be safe and accessible to POTW personnel during all reasonable times and so as to provide accurate and representative monitoring data. The complexity of the required control structure or devices may vary with sampling requirements determined necessary by the WWTP Superintendent to protect the POTW and to comply with applicable laws and regulations. If a User fails to

install or maintain a required structure or device, the City may do so at the expense of the User. Samples shall be taken at the control structure. In the absence of a suitable control structure as required by this Section, samples shall be taken immediately downstream from pretreatment facilities if pretreatment facilities exist, or immediately downstream from the regulated process if no pretreatment facilities exist.

Sec. 7.03

REPORTING AND NOTICE REQUIREMENTS

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

(a) Reports By Industrial Users Regarding Categorical Pretreatment Standards and Requirements

- (1) Baseline Reports (40 CFR 403.12(b)). Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4) whichever is later, an existing Industrial User subject to the categorical pretreatment standards and which currently discharges or is scheduled to discharge to the POTW shall submit a report to the WWTP Superintendent as required by 40 CFR 403.12(b). At least 90 days prior to commencement of discharge, new sources, and sources that become Industrial Users subsequent to the promulgation of an applicable categorical pretreatment standard shall submit the reports to the WWTP Superintendent as required by 40 CFR 403.12(b).
- (2) Reports on Compliance with Categorical Pretreatment Standard Deadline (40 CFR 403.12(d)). Within 90 days following the date for final compliance with applicable categorical pretreatment standard or, in the case of a New Source, following commencement of the discharge to the POTW, any Industrial User subject to categorical pretreatment standards and requirements shall submit the reports to the WWTP Superintendent required by 40 CFR 403.12(d).
- (3) Periodic Reports on Continued Compliance (40 CFR 403.12(e)). Any Industrial User subject to a categorical pretreatment standard, after the compliance date of the categorical pretreatment standard, or, in the case of a New Source, after commencement of the discharge into the public sewer or POTW, shall submit the periodic reports

to the Superintendent required by 40 CFR 403.12(e). These periodic reports shall be submitted at least once every 6 months (during the months of June and December unless alternate months are specified by the WWTP Superintendent), unless required more frequently by the applicable pretreatment standard or by the WWTP Superintendent.

- (b) Reports required for Significant Industrial Users Not Subject to Categorical Pretreatment Standards (40 CFR 403.12(h)). All Significant Industrial Users not subject to categorical pretreatment standards shall submit to the POTW periodic reports providing information regarding the quality and quantity of wastewater and pollutants discharged into the POTW. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the sampling, analysis and monitoring requirements provided by Section 1 of this Article. The reports shall be submitted at least once every 6 months for the preceding 6 months (during the months of June and December unless alternate months are specified by the WWTP Superintendent), unless required more frequently by the WWTP Superintendent. The reports shall be submitted on forms provided by (or in a format required by) the POTW, and shall include, without limitation, the volume of wastewater; the concentration of pollutants; the names of all person(s) responsible for operating and maintaining any pretreatment equipment, pretreatment processes, or responsible for wastewater management at the User's facilities, with a brief description of each person's duties; information regarding materials or substances which may cause interference or pass through; and any other information deemed necessary by the WWTP Superintendent to assess and assure compliance with applicable discharge requirements or to safeguard the operation of the POTW.
- (c) Notice by User of Potential Problems (40 CFR 403.12(f)). All Industrial Users, whether or not subject to categorical pretreatment standards, shall notify the POTW immediately of all discharges by the User that could cause problems to the POTW, including, without limitation, slug loadings, or discharges that exceed a discharge prohibition or limitation provided by this Ordinance.
- (d) Notice by User of Violation of Pretreatment Standards (40 CFR 403.12(g)(2)). If sampling performed by an Industrial User to demonstrate compliance with

applicable pretreatment standards indicates a violation, the User shall notify the POTW within 24 hours of becoming aware of the violation.

- (e) Notice by User of Changed Discharge or Change in User Status (40 CFR 403.12(j)). All Industrial Users shall promptly notify the WWTP Superintendent in advance of any substantial change in the volume or character of pollutants in their discharge, including the hazardous wastes for which the Industrial User has submitted initial notification under Section 3(f) of this Article. If the change in discharge may convert an Industrial User into a Significant Industrial User, the User shall promptly submit an application for an Industrial User Permit to the WWTP Superintendent.
- (f) Notice By User Regarding Wastes Which Are Otherwise Hazardous (40 CFR 403.12(p)). Any Industrial User that discharges to the POTW a substance which, if disposed of other than by discharge to the POTW, would be a hazardous waste under 40 CFR part 261 or under the rules promulgated under the Michigan Hazardous Waste Management Act ("Michigan Rules") shall notify the WWTP Superintendent, the U.S. EPA Region V Waste Management Division Director, and the Chief of the Waste Management Division of the Michigan Department of Natural Resources of the discharge as required by 40 CFR 403.12(p).
- (g) Notice by User of Installation of New Pretreatment Facilities. Within 5 days after completing installation of new pretreatment facilities, all Industrial Users shall notify the Superintendent in writing of the time and date when it intends to commence operation of the new facilities, and the identity of the person who will conduct any tests to be performed. The pretreatment facilities shall not be placed in regular operation until adequate tests have been conducted to establish that the discharges will comply with the requirements of this Ordinance. Upon prior written request by the Superintendent, the User shall allow a representative of the POTW to observe the tests at the time they are conducted. The cost of the tests shall be paid by the User.
- (h) Other Reports and Notices Required by this Ordinance or by Other Applicable Laws and Regulations. Users shall comply with all other reporting or notice requirements as provided by this Ordinance or as required by any other applicable law or regulation, including, without limitation, the reporting and notice requirements in connection with accidental discharge (Section 8 of this

Article), Upset (Section 9 of this Article) and Bypass (Section 10 of this Article).

- (i) Signatory and Certification Requirements. The reports required by Sections 3(a) and 3(b) of this Article shall be signed and certified as follows:

- (1) Required Signatures. The reports shall be signed by one of the following persons:

- (a) By a responsible corporate officer, if the Industrial User submitting the reports is a corporation. A "responsible corporate officer" means: (i) a president, secretary, treasurer, or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than 100 persons, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) By a general partner or proprietor if the Industrial User submitting the reports is a partnership or sole proprietorship respectively.
- (c) The principal executive officer or director having responsibility for the overall operation of the discharging facility if the Industrial User submitting the reports is a federal, state or local governmental entity.
- (d) By a duly authorized representative of an individual designated in Sections 3(i)(1)(a), (b), or (c), above, if the authorization is made in writing by the individual designated in Sections 3(i)(1)(a), (b), or (c); the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates (such as the position of plant manager, pretreatment operator, pretreatment superintendent, or a position of equivalent responsibility, or having overall responsibility for the environmental matters for the company); and the written authorization is submitted to the WWP Superintendent.



(e) If an authorization under Section 3(i)(1)(d) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of Section 3(i)(1)(d) must be submitted to the WWTP Superintendent prior to or together with any reports to be signed by an authorized representative.

(2) Required Certification. The reports shall include the following certification statement:

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

Sec. 7.04

INDUSTRIAL USER PERMITS

- (a) Industrial User Permit Required. It is unlawful for any Significant Industrial User, or any other Industrial User as determined necessary by the WWTP Superintendent to carry out the purposes of this Ordinance, to discharge to the POTW without first obtaining an Industrial User Permit as provided by this Ordinance. Any violation of the terms and conditions of an Industrial User Permit shall be deemed a violation of this Ordinance, subject to the fine, penalty, surcharge and other enforcement provisions of this Ordinance. Obtaining an Industrial User Permit shall not relieve a User of its obligation to obtain other permits or approvals which may be required by other federal, state or local laws and regulations.
- (b) Application deadlines. Users shall apply for an Industrial User Permit within the following deadlines:

- (1) Existing Connections: Any Significant Industrial User discharging into the POTW as of the effective date of this Ordinance shall, within 90 days after that date, apply to the POTW for an Industrial User Permit and shall not cause or allow any discharges into the POTW after 180 days from the effective date of this Ordinance, except in accordance with an Industrial User Permit issued by the Superintendent.
  - (2) New Connections: Any Significant Industrial User proposing to commence (or recommence) discharging into the POTW after the effective date of this Ordinance shall, at least 120 days prior to the anticipated date on which discharging will commence, apply to the POTW for an Industrial User Permit, and shall not cause or allow any discharges into the POTW to commence, except in accordance with an Industrial User Permit issued by the Superintendent.
  - (3) Existing and New Connections for Users within the Village: Existing Industrial Users located within the Village shall apply for an Industrial User Permit within 90 days of the effective date of this Ordinance. New Industrial Users shall apply for an Industrial User Permit at least 120 days prior to discharging into the POTW. If the application for an Industrial User is approved, the Superintendent may enter into a contract with the User under which the User shall agree to be bound by all provisions and requirements of this Ordinance.
- (c) Permit Application Requirements. All Industrial Users required to obtain an Industrial User Permit shall submit the following information on the application form supplied by the Superintendent:
- (1) Name, address, and location (if different than address).
  - (2) Whether the User is a corporation, partnership, proprietorship, or other type of entity, and the name of the person(s) responsible for discharges by the User.
  - (3) Standard Industrial Classification (SIC) code of both the industry (or use) as a whole and any processes for which categorical pretreatment standards have been promulgated.

- (4) Wastewater constituents and characteristics, including, without limitation, any pollutants which are limited or regulated by any federal, state, or local standards or requirements. Sampling and analysis shall be performed in accordance with the procedures established by the U.S. EPA and contained in 40 CFR part 136.
- (5) Time and duration of discharges.
- (6) Daily maximum, daily average, and monthly average wastewater flow rates, including daily, monthly, and seasonal variations, if any.
- (7) Description of activities, facilities, and plant process on the premises, including a list of all raw materials and chemicals used at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- (8) Site plans, floor plans, and details to show all sewers, floor drains, and appurtenances by size, location and elevation.
- (9) Each product produced by type, amount, process, and rate of production, as relevant to pretreatment standards and requirements.
- (10) Type and amount of raw materials processed (average and maximum per day), including copies of material safety data sheets.
- (11) Number and type of employees, and hours of operation, and proposed or actual hours of operation of the pretreatment system.
- (12) A listing of and copies of all environmental permits held by the User applicable to the premises for which the Industrial User Permit is being sought.
- (13) Whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the User to meet all applicable federal, state and local standards and requirements. If additional O&M or additional pretreatment will be required to meet the applicable standards and requirements, then the User shall indicate the shortest time schedule necessary to accomplish installation or adoption of the additional O&M and/or pretreatment. The completion date in this schedule shall not be longer than the compliance

date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (including, without limitation, hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, beginning operation, and conducting routine operation). No increment referred to above shall exceed 9 months, nor shall the total compliance period exceed 18 months.
- (b) No later than 14 days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Superintendent including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the User to return to the established schedule. In no event shall more than nine months elapse between submission of the progress reports to the Superintendent.
- (14) Any other information determined necessary by the Superintendent to adequately evaluate the application. To the extent that actual data is not available for a new source, the applicant shall supply estimated or expected information.
- (15) All site plans, floor plans, or other plans required to be submitted as a part of the application shall be prepared and sealed by a licensed engineer.
- (16) All applications shall be signed and certified as provided by Section 3(i) of this Article.
- (d) Permit Issuance. The Superintendent shall evaluate the information furnished by the User and may require additional information as necessary to complete and properly review the application. Within 120 days after the submission of a complete application, the Superintendent shall either issue an Industrial User

Permit subject to terms and conditions provided by this Ordinance, or deny the application.

- (e) Permit Denial. A permit may be denied by the Superintendent if the Superintendent determines that the proposed discharge, or continued discharge, will not comply with all applicable standards and requirements of this Ordinance, or if the User refuses to accept the terms and conditions of a permit as proposed to be issued by the Superintendent, or for any reason which would support a suspension or revocation of the permit as provided by Section 4(1) of this Article.
- (f) Public Notification. The Superintendent shall publish in the local newspaper a notice of intent to issue an Industrial User Permit, at least 14 days prior to issuance. The Superintendent shall also publish in the local newspaper, within 7 days of issuance of a permit, a notice that an Industrial User Permit has been issued. The notices required by this Section shall indicate where the permit may be reviewed and an address where written comments may be submitted.
- (g) Permit Conditions. Permits shall include any conditions determined to be reasonably necessary by the Superintendent to prevent pass through or interference, to protect the quality of the Kalamazoo River, to protect worker health and safety, to facilitate POTW sludge management and disposal, to protect ambient air quality, and to protect against damage to the POTW. To the extent determined by the Superintendent to be applicable to the User in question, all permits shall contain at least the following conditions:
  - (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
  - (2) Limits on the average and/or maximum concentration, mass, or other measure of identified wastewater constituents or properties.
  - (3) Requirements for installation of pretreatment technology or construction of appropriate containment devices, or similar requirements designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - (4) Development and implementation of spill control plans or other special conditions, including additional management practices necessary to

adequately prevent accidental, unanticipated, or routine discharges.

- (5) The unit charge and schedule of User charges and fees for the management of the wastewater discharged to the POTW.
- (6) Requirements for installation, maintenance and operation of inspection and sampling facilities and discharge flow monitors.
- (7) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (8) Compliance schedules.
- (9) Requirements for submission of technical reports or discharge reports.
- (10) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Superintendent and affording the Superintendent access to those records.
- (11) Requirements for notification of any new introductions of wastewater constituents or of any substantial change in the volume or character of the wastewater being introduced into the POTW.
- (12) Requirements for the notification of any change in the manufacturing and/or pretreatment process used by the permittee.
- (13) Requirements for notification of excessive, accidental, or slug discharges.
- (14) A statement regarding limitations on transferability of the permit.
- (15) A statement of the duration of the permit.
- (16) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable pretreatment standards and requirements, including those which become effective during the term of the permit.
- (17) A statement of applicable civil and criminal penalties for violation of discharge limitations, pretreatment standards and requirements, and

compliance schedules.

(18) Other conditions as determined necessary by the Superintendent to ensure compliance with this Ordinance and other applicable laws, rules and regulations.

- (h) Permit Duration. Permits shall be issued for a specified time period not to exceed 5 years. A permit may be issued for a period of time less than 5 years, at the discretion of the Superintendent.
- (i) Permit Reissuance. A User may apply for reissuance of a permit by submitting a complete permit application to the WWTP Superintendent at least 90 days prior to the expiration of the User's existing permit.
- (j) Continuation of Expired Permits. An expired permit will continue to be effective and enforceable until the permit is reissued if:
  - (1) The Industrial User has submitted a complete permit application at least 90 days prior to the expiration date of the User's existing permit; and
  - (2) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the Industrial User.
- (k) Permit Modification. The Superintendent may modify the permit for good cause, including, without limitation, any of the following reasons:
  - (1) To incorporate any new or revised federal, state or local pretreatment standards or requirements, or other applicable requirement of law or regulation.
  - (2) Material or substantial changes or additions to the User's operations, processes, or the character or quality of discharge which were not considered in drafting the existing permit.
  - (3) A change in any condition in either the Industrial User or the POTW that requires either a temporary or permanent reduction or elimination of the User's discharge to assure compliance with applicable laws, regulations and the POTW's NPDES permit.
  - (4) Information indicating that the permitted discharge poses a threat to the POTW's collection

or treatment systems, POTW personnel or the receiving waters.

- (5) Violation of any terms or conditions of the permit.
- (6) Misrepresentation or failure to disclose fully all relevant facts in the permit application or in any required reporting or notice.
- (7) Revision of, or a grant of a variance from, applicable categorical standards pursuant to 40 CFR 403.13.
- (8) To correct typographical or other errors in the permit.
- (9) To reflect transfer of the facility ownership and/or operation to a new owner/operator.
- (10) Upon request of the permittee, provided the request does not create a violation of any applicable requirements, standards, laws, rules or regulations.

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

- (1) Permit Suspension and Revocation. Permits may be suspended or revoked by the WWTP Superintendent for good cause, including, without limitation, any of the following reasons:

- (1) Falsifying self-monitoring reports.
- (2) Tampering with monitoring equipment.
- (3) Refusing to allow timely access to the facility premises and records.
- (4) Failure to meet effluent limitations.
- (5) Failure to pay fines or penalties.
- (6) Failure to pay sewer charges.
- (7) Failure to pay permit fees.
- (8) Failure to meet compliance schedule.



- (9) Failure to comply with any term or condition of the permit.
- (10) Failure to disclose fully all relevant facts in the permit application or during the permit issuance process, or misrepresentation of any relevant fact at any time.
- (11) The Superintendent determines that the discharge permitted by the permit has a reasonable potential to endanger human health or the environment and the threat can be abated only by suspension or revocation of the permit.

Upon suspension or revocation of a permit, a User shall immediately terminate its discharge to the POTW and shall not thereafter recommence discharge without further authorization from the City as provided by this Ordinance.

- (m) Limitations on Permit Transfer. Industrial User Permits are issued to specific Users for specific operations at specific locations and are not transferable to another User or to another location without the prior written approval of the Superintendent. The Superintendent may approve the transfer of a permit if all of the following conditions are met:

- (1) The transferor (permittee) shall give at least 45 days advance notice to the Superintendent of the proposed transfer. The notice shall include a written certification signed by the proposed transferee which (a) states that the transferee has no present intent to change the facility's operations and processes; (b) identifies the specific date on which the transfer is to occur; (c) acknowledges that the transferee has read and fully understands all terms and conditions of the permit; and (d) acknowledges that the transferee accepts all of the terms and conditions of the permit as written and accepts full responsibility for complying with the existing permit if the transfer is approved.
- (2) The transferor has not violated any term or condition of the permit or of this Ordinance during the 6 month period preceding the proposed date of the transfer.

- (3) As of the date of the proposed transfer, there are no unpaid charges, fines, penalties or fees of any kind due to the Village or City from the transferor or the transferee related to use of the POTW.
- (4) Except as to the identity of the new discharger (the transferee), the application materials for the permit to be transferred as originally filed by the transferor, as well as the terms and conditions of the permit itself, are completely accurate with respect to, and fully applicable to, the discharge, facilities, and activities of the transferee.

If the transfer of a permit is approved, the Superintendent shall make the necessary minor modifications to the permit to show the transferee as the permittee, and a copy of the permit shall be provided to the transferee for signature and certification by the transferee as provided by Section 3(i) of this Article.

- (n) Permit Fees. Industrial User Permit fees shall be paid, collected and distributed as provided by this Section:

- (1) Fees Required. Industrial User Permit fees shall be paid to the City in amounts necessary to reimburse the City for all expenses incurred by the City in connection with issuing permits. The fees shall be charged on a time and materials basis, plus general administrative expenses, based on the particular requirements of each permit. The fees shall cover permit activities including, without limitation, costs to the City associated with reviewing and processing permit applications; administering permits issued; monitoring compliance with permits; performing sampling and analysis (scheduled or unscheduled); performing inspections (scheduled or unscheduled); processing renewal applications; and processing permit transfer requests. The City Council shall establish by resolution a schedule of standard permit fees and charges required in connection with issuing and administering Industrial User Permits consistent with the purposes and intent of this Section. These permit fees shall be separate from, and in addition to, the Readiness-to-Serve Charges and User Charges as provided for in Article VIII of this Ordinance.

- (2) Fee Collection. The initial Industrial User Permit fee shall be due upon issuance of the permit. For each year thereafter, annual fees shall be due on the first day of the month following the anniversary date of the Industrial User Permit. Fees other than annual fees shall be due within 30 days of the date of the permit activity for which the fee is required.
- (3) Fee Distribution. Fees collected as provided by this Section shall be credited to the Sewer Fund and shall be used to fund the Industrial Pretreatment Program.
- (o) Permit Appeals. Except as otherwise provided by this Section, an appeal to the Wastewater Board of Appeals ("WBA") of any final decision made by the WWTP Superintendent in connection with issuing or implementing an Industrial User Permit shall be governed by Article XI of this Ordinance. An appealing party must specify in its Notice of Appeal the action of the Superintendent being appealed and the grounds for the appeal. If a particular permit provision is objected to, the Notice of Appeal must specify the reasons for the objection, and the alternative provision, if any, sought to be placed in the permit. The effectiveness of a permit or any final decision made by the Superintendent shall not be stayed pending a decision by the WBA on an appeal. If, after considering the record on appeal including any statements provided by the Superintendent in response to the appeal, the WBA determines that a permit or any provision of a permit should be reconsidered, the WBA shall remand the matter to the Superintendent for further action as determined appropriate by the WBA. Specific provisions of a permit which are remanded by the WBA for reconsideration by the Superintendent shall be stayed pending further final action taken by the Superintendent as required by the decision of the WBA. A decision of the WBA not to remand any matter shall be considered final administrative action for purposes of judicial review.
- (p) Permits Not Stayed. Except as otherwise expressly provided by Section 5(o) of this Article, no action taken or request filed by any permittee shall operate to stay the effect of any permit or of any provision, term or condition of any permit, including, without limitation, a request for permit modification, reissuance, or transfer, or a notification of planned changes or anticipated noncompliance.

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

- (a) All information and data submitted to the Village or the City relating to matters regulated in this Chapter are presumed not to be confidential. Information submitted by a User shall be clearly marked on each page as to the portion or portions considered by the User to be confidential and shall be accompanied by a written explanation of why the User considers the information to be confidential or why the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the User. Information which may disclose trade secrets or secret processes, and for which the User has requested confidentiality as provided by this Section, shall not be made available for inspection by the general public; however, that information shall be made available upon written request to governmental agencies for uses related to matters regulated by this Ordinance and shall be made available for use by the state, any state agency, or the Village or the City in judicial review or enforcement proceedings which involve the User that furnished the information. The Village or the City shall notify the User 10 days in advance if it intends to release confidential information to another governmental agency as authorized by this Section.
- (b) Information furnished to the City on the volume or characteristics of wastewater or pollutants discharged or proposed to be discharged into the POTW shall be available to the public or other governmental agency without restriction.
- (c) If a User has mass-based limits as allowed by certain Categorical Pretreatment Standards on a production basis, the production data necessary to determine compliance must also be provided by the User to the City, and shall be available to the public. If application of the combined waste stream formula is necessary to apply categorical pretreatment standards to a User, the flow measurements and other data used in the calculation must be provided by the User to the City, and shall be available to the public.

- (d) Observations made by City inspectors shall be subject to the confidentiality provisions of this Section as if they were in writing if the User specifies to the City in writing for which particular observations made by the City Inspector the User seeks confidentiality.

**Sec. 7.06      MAINTENANCE OF RECORDS**

All Industrial Users shall retain and preserve records, including, without limitation, all books, documents, memoranda, reports, correspondence and similar materials, related to matters regulated by this Ordinance as provided by this section.

- (a) Any Industrial User subject to the sampling, analysis, or reporting requirements of this Article, including reports under 40 CFR 403.12, shall maintain copies of the reports and records pertaining to those reports. For all samples, the records shall include the date, exact place, method and time of sampling and the names of person(s) taking the samples; the dates the analyses were performed; who performed the analyses; the analytical techniques and methods used; and the results of the analyses. The reports and records shall be retained by the User for at least 3 years. This retention period shall be extended during the course of any unresolved litigation regarding the discharges of the User or the POTW, or if requested by the WWTP Superintendent, the Executive Secretary of the Michigan Water Resources Commission, or the U.S. EPA.
- (b) All Industrial Users who have records regarding their generation, treatment, storage, or disposal of hazardous waste or solid waste shall maintain those records for at least 3 years and shall make them available to the City for inspection and copying, subject to the provisions contained in Section 6 of this Article regarding confidential information. The terms "hazardous waste" and "solid waste" shall have the same definition as provided in the Michigan Hazardous Waste Management Act, as amended, and rules promulgated under that act.

**Sec. 7.07      ACCIDENTAL DISCHARGES**

This Section sets forth minimum requirements for Industrial Users to prepare for, respond to, and report, accidental discharges to the POTW. Additional or more restrictive requirements may be required of particular Users under an Industrial User Permit, a Special Agreement, a slug control plan, or by other applicable laws and regulations. Compliance with the requirements of this Section shall not relieve a User of any expense, loss, damage, or other liability which may be incurred

as a result of damage to the POTW, or for any other damage to persons or property, or for any other liability which may be imposed under this Ordinance or under other applicable laws and regulations.

- (a) Designation of Person in Charge of Discharge Operations. Each Industrial User shall designate at least 1 person to be in charge of and responsible for the User's discharges to the POTW, including responsibility for maintaining pretreatment facilities and operations, if any, and prevention of accidental discharges ("person in charge"). The person so designated shall be an individual or a position with knowledge of all toxic wastes or hazardous substances routinely or potentially generated by the User, and of all process alterations which could, in any manner, increase or decrease normal daily flow or waste strength to the POTW.
- (b) Description of Chemicals Stored, Used or Manufactured by User. Each Industrial User shall catalog all chemicals stored, used, or manufactured by the User at the User's premises. The list of chemicals shall include specific chemical names (not just manufacturer's codes) and shall be provided to the WWTP Superintendent.
- (c) Description of User Discharges. Each Industrial User shall provide the Superintendent with a written description of the User's discharge practices, including an estimate of daily average flows, waste strengths, and flow types, separated according to appropriate categories including process, cooling, sanitary, etc.
- (d) Description of User Premises. Each Industrial User shall provide to the Superintendent a sketch of the User's plant building(s), including the location of pretreatment equipment, process and chemical storage areas, floor drains located near process and storage areas, manhole or other control structures, and sewer locations at the User's point of discharge into the POTW.
- (e) Segregation of Wastewaters Requiring Pretreatment. Industrial Users shall segregate wastewaters requiring pretreatment (including, without limitation, spent concentrates, toxics, and high strength organic wastes) as necessary to prevent pollutants from interfering with or passing through the POTW. All sludges generated by pretreatment shall be used or disposed of only as permitted by applicable laws and regulations.

- (f) Secondary Containment Requirements. Each Industrial User must provide and maintain at the User's expense secondary spill containment structures (including diking, curbing or other appropriate structures) adequate to protect all floor drains from accidental spills and discharges to the POTW of any pollutants or discharges regulated by this Ordinance. The containment or curbing shall be sufficient to hold not less than 150% of the total process area tank volume and not less than 150% of liquid polluting material stored or used, unless a lesser containment area or alternate control measures are approved in advance by the Superintendent. The containment area shall be constructed so that no liquid polluting material can escape from the area by gravity through the building sewers, drains, or otherwise directly or indirectly into the POTW. All floor drains found within the containment area must be plugged and sealed. Spill troughs and sumps within process areas must discharge to appropriate pretreatment tanks. Emergency containment shall also be provided for storage tanks which may be serviced by commercial haulers and for chemical storage areas. Solid pollutants shall be located in security areas designed to prevent the loss of the materials to the POTW. Detailed plans showing facilities and operating procedures to provide the protection required by this Section shall be submitted to the Superintendent for review, and shall be approved by the Superintendent before construction. Construction of approved containment for existing sources shall be completed within the time period specified by the Superintendent. No new Source shall be permitted to discharge to the POTW until emergency containment facilities have been approved and constructed as required by this section. The Superintendent may order an Industrial User to take interim measures for emergency containment as determined necessary by the Superintendent under the circumstances.
- (g) Submission of Pollution Incident Prevention Plan. Each Industrial User required to develop a Pollution Incident Prevention ("PIP") Plan as provided by Act 245 of the Public Acts of Michigan of 1929 (MCL 323.1 et seq.), as amended, and Part 5 of the Michigan Water Resources Commission Rules, 1979 AC R 323.1151 et seq., as amended shall submit a copy of that Plan to the Superintendent. The PIP Plan shall be submitted to the Superintendent within 60 days of the effective date of this Ordinance for an existing source, or 30 days prior to the date of discharge for a new source.

- (h) Posting of Accidental Discharge Information. All Industrial Users shall post a clearly legible set of instructions in the area where the User manages wastewater so that the applicable reporting and notice requirements are made known and are available to the User's employees. In addition, all Industrial Users shall instruct their employees on the applicable reporting and notice requirements of this Section.
- (i) Notice of Accidental Discharge. In the case of an accidental discharge, an Industrial User shall immediately notify the WWTP Superintendent of the incident by telephone. The notification shall include available information regarding the location of the discharge, its volume, duration, constituents, loading and concentrations, corrective actions required and other available information as necessary to determine what impact the discharge may have on the POTW. A written notification providing the same and any additional available information shall also be provided by the User to the Superintendent within 5 days of the incident.
- (j) Slug Control Plan. The WWTP Superintendent may, by written notice to an Industrial User, require that the User prepare and implement an individualized slug control plan. The plan shall be submitted to the Superintendent for approval as specified in the written notice. The plan shall contain at least the following elements:
- (1) A description of discharge practices, including non-routine batch discharges;
  - (2) A description of stored materials;
  - (3) The procedures for immediately notifying the Superintendent of slug discharges, including any discharge that would violate any discharge prohibition, limitation or requirement under this Article, and procedures for follow-up written notification within 5 days of the discharge;
  - (4) The procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.



UPSET LIABILITY AND RESPONSIBILITY

- (a) Upset Liability. An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all of the requirements of Section 9(b), below, are met. However, in the event of an Upset, the User may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Ordinance. In any enforcement proceeding, the User seeking to establish the occurrence of an Upset shall have the burden of proof by clear and convincing evidence.
- (b) Conditions Necessary to Demonstrate Upset. A User seeking to establish the affirmative defense of Upset must demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An Upset occurred and the User can identify the cause(s) of the Upset;
  - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
  - (3) The User has submitted the following information to the POTW within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within 5 days): (a) A description of the discharge and cause of non-compliance; (b) the period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and (c) the steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) User Responsibility in Case of Upset. The User shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards and other applicable limits upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

BYPASS

(a) Bypass Prohibited. The Bypass of industrial wastes from any portion of an Industrial User's facility is prohibited unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated waste, or maintenance during normal periods of equipment downtime; and
- (3) The Industrial User submitted notices required under this Section.

(b) Required Notices.

- (1) If an Industrial User knows in advance of the need for a Bypass, it shall submit prior notice to the Superintendent at least 10 days before the date of the Bypass, if possible.
- (2) An Industrial User shall submit oral notice of an unanticipated Bypass that exceeds applicable pretreatment standards to the Superintendent within 24 hours from the time the Industrial User becomes aware of the Bypass. A written submission shall also be provided within 5 days of the time the Industrial User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(c) POTW Approved Bypass. The Superintendent may approve an anticipated Bypass after considering its adverse effects, if the Superintendent determines that it meets the conditions set forth in Section 10(a)(1), (2) and (3), above.

Sec. 7.10

ADDITIONAL AFFIRMATIVE DEFENSES

A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions and specific prohibitions as expressly provided by 40 CFR 403.5(a)(2) if the User can demonstrate that all of the conditions necessary to establish the defense under 40 CFR 403.5(a)(2)(i) and (ii) are met. However, even if the affirmative defense is established, the User may still be liable for surcharges for exceeding applicable discharge limitations as provided by this Ordinance. In any enforcement proceeding, the User seeking to establish the affirmative defenses provided by 40 CFR 403.5(a)(2) shall have the burden of proof.

Sec. 7.11

PRELIMINARY TREATMENT OR FLOW EQUALIZING FACILITIES

- (a) The design and installation of the preliminary treatment plants and equipment and flow equalizing facilities, if permitted, shall be subject to the prior review and approval of the Superintendent, and subject to the requirements of all applicable codes, ordinances and laws. The review and approval of pretreatment facility plans and operating procedures shall in no way relieve the User from the responsibility to modify the facility as necessary to produce a discharge which meets the requirements of this Ordinance. Any subsequent changes proposed in the pretreatment facilities or methods of operation shall be reported to the Superintendent and shall require approval by the Superintendent prior to initiation of the changes by the User.
- (b) If preliminary treatment or flow equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the User at the User's expense.

ARTICLE VIII

USER CHARGE SYSTEM

This Article provides for the recovery of costs from Users of the POTW.

Sec. 8.01

READINESS-TO-SERVE CHARGE

The Readiness-To-Serve Charge is intended to generate revenue to pay administrative and equipment replacement costs. These costs comprise overhead costs which are associated with operation of the wastewater system, but which are not directly included in operation and maintenance. The Readiness-to-Serve

Charge shall payable by each User on a frequency and basis that shall be established by resolution of the Village Council.

Sec. 8.02      USER CHARGE

The User Charge is intended to generate revenue to pay the operation and maintenance costs for the wastewater system. The User Charge shall be based on each User's estimated flow per gallon. For commercial and Industrial Users, flows shall be estimated based on the User's most recent water meter reading. For all other Users, flows shall be estimated based on the User's most recent water meter reading for winter water use. If no municipal water is available to a User, flows shall be estimated as established by Village resolution. In lieu of estimated flows, a User may install a water meter at the User's expense to measure the actual consumption.

Sec. 8.03      SURCHARGES

- (a) Applicability of Surcharges. Surcharges are intended to reimburse the City for any costs incurred by the City in handling or treating a discharge which exceeds applicable discharge limitations. Any User exceeding:
- (1) the discharge prohibitions, limitations and requirements provided by Article VI of this Ordinance (in the absence of an Order to effect pretreatment, an Industrial User Permit, or a Special Agreement applicable to that User); or
  - (2) the discharge prohibitions, limitations and requirements provided in an Order to effect pretreatment, an Industrial User Permit or Special Agreement applicable to that User, 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 City, where the exceedance of applicable limits causes or contributes to those costs or expenses. All exceedances of applicable discharge prohibitions and limitations and all instances of noncompliance with applicable discharge requirements shall constitute a violation of this Ordinance, subject to applicable fines, penalties and other enforcement actions provided by this Ordinance. In no event shall the imposition of a Surcharge for a discharge which does not meet the applicable prohibitions, limitations or requirements be construed as authorizing the illegal discharge or otherwise excuse a violation

of this Ordinance.

(b) Determination of Surcharge. The Superintendent shall calculate the amount of the surcharge to be assessed against a User based upon factors including, without limitation, the following:

- (1) The volume, composition, or duration of the discharge.
- (2) The nature, extent, and degree of success the POTW may achieve in minimizing or mitigating the impacts of the discharge.
- (3) The toxicity, degradability, treatability, and dispersal characteristics of the discharge.
- (4) Costs incurred by the City to treat the discharges, including sludge handling and disposal.
- (5) The amount of any fines and penalties imposed on the Village or the City as a result of the discharge, including the Village's or the City's costs of defense (including actual attorneys' fees, consultant fees, and sampling and analytical fees) of actions brought or threatened against the Village or City by the state or federal government or any third party.
- (6) Any damages to the POTW or damages imposed upon the City by the state or federal government or third parties as a result of the discharge.
- (7) Other factors related to costs or expenses incurred by the Village or City or claims brought against the Village or City as a result of the discharge.

Sec. 8.04

RATES, CHARGES AND BILLING PROCEDURE

The amounts to be charged and any penalties under this Ordinance shall be established from time-to-time by resolution of the Village. All sums due to the City shall be billed according to a schedule established by resolution of the City Council. (If not paid to the City within 15 days of due date, an additional charge equal to 10% of the total unpaid balance shall be added). Any delinquent bills with penalties due the Village or City (including any delinquent amounts determined to be payable to the City under Sec. 4 of Article XI) shall be a lien against the premises served. The Village shall spread delinquent amounts on the next regular Village tax roll. The lien arising under

this section shall be of the same effect as a lien created by state and county taxes and collection shall be enforced in a like manner.

## ARTICLE IX

### INDUSTRIAL COST RECOVERY SYSTEM (reserved)

## ARTICLE X

### ADMINISTRATION AND ENFORCEMENT

#### Sec. 10.01 OPERATION AND MANAGEMENT OF POTW

The Village recognizes that the operation, maintenance, alteration, repair and management of the POTW shall be under the supervision and control of the WWTP Superintendent. The Superintendent is charged with the duty of investigating, preventing and abating violations and enforcing the provisions of this Ordinance. The City may employ additional persons as necessary or advisable to carry out the efficient management and operations of the system and may make any rules, orders and regulations as determined necessary by the City to assure the efficient management and operation of the system, including the setting of rates, surcharges, fees, penalties, fines, or other charges, for the use of the POTW.

#### Sec. 10.02 POWERS OF WWTP SUPERINTENDENT

The Superintendent is empowered, either directly or through authorized representatives, to:

- (a) Supervise the implementation of this Ordinance.
- (b) Institute actions against all Users violating this Ordinance and institute necessary legal proceedings on behalf of the City to prosecute violations of this Ordinance, to compel the abatement or prevention of violations, to compel compliance with this Ordinance and any order, determination, permit or agreement issued or entered into under this Ordinance, and to pursue other necessary or advisable relief or remedies with respect to violations of this Ordinance.
- (c) Review the plans for pretreatment equipment submitted by Users.
- (d) 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 Ordinance.

- (e) Investigate complaints of violations of this Ordinance, make inspections and observations of discharges, and maintain a record of the investigations, complaints, inspections and observations.
- (f) Issue orders and notices of violation requiring compliance with this Ordinance.
- (g) Propose the imposition of civil penalties for violations of this Ordinance.
- (h) Make recommendations to the Village for amendments to this Ordinance as required or as necessary to comply with applicable laws and regulations.
- (i) Encourage voluntary cooperation in water pollution control.
- (j) Collect and disseminate information on water pollution control.
- (k) Coordinate activities under this Ordinance with planning and zoning agencies to promote conservation and management of the water resources of the City.
- (l) Cooperate with federal, interstate, state, county, district, municipal, or other agencies concerned with water pollution with respect to studies, abatement programs, public complaints, and other matters to conserve and improve the natural resources of the City.
- (m) Assess civil administrative fines for violations of this Ordinance or of any permit, order, decision or determination promulgated, issued or made under this Ordinance.
- (n) Perform any other actions authorized by this Ordinance, or as necessary or advisable for the management and operation of the POTW and the enforcement of this Ordinance and other applicable laws and regulations.

Sec. 10.03      INSPECTION, SURVEILLANCE AND MONITORING AUTHORITY

- (a) The WWTP Superintendent and other authorized representatives of the City are authorized by the Village to carry out all inspection, surveillance, sampling and monitoring activities and procedures, as necessary to determine, independent of information supplied by Industrial Users, compliance or

noncompliance with applicable pretreatment standards and requirements, with this Ordinance, and with other applicable laws and regulations. This authority includes, without limitation, the authority:

- (1) To require any User to submit 1 or more representative samples of the wastewater discharged or which the User proposes to discharge into the POTW.
  - (2) To enter into any premises of any Industrial User in which a discharge source or treatment system is located or in which records required to be kept as provided by this Ordinance are maintained, for the purpose of inspecting, observing, measuring, sampling and testing the wastewater discharge, removing samples of wastewater for analysis, and making copies of applicable records.
  - (3) To randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities to identify occasional and continuing noncompliance with applicable standards and requirements.
- (b) If a User refuses to permit 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 Section, the Superintendent may order the termination of the discharge of wastewater to the POTW; order the User to permit access within a time certain; issue the User a citation for a violation of this Section; or take other appropriate action as provided by this Ordinance.

Sec. 10.04      ORDERS

The Superintendent may issue an Order to any User as determined by the Superintendent to be appropriate under the circumstances, as provided by this Section.

- (a) Service. An Order shall be served upon a User and shall contain the information as provided by Section 7 of this Article. However, Orders to Immediately Cease and Desist Discharge, or to Terminate Sewer Services, or other emergency Orders where delay might endanger human health, the environment or the POTW, may be oral and may be served by telephone (to be followed within 5 days by written confirmation by the Superintendent of the Order).



(b) Types of Orders. The Superintendent may issue the following types of Orders:

- (1) Order to Immediately Cease and Desist Discharge. The Superintendent may issue an Order to cease and desist from discharging any wastewater, incompatible pollutant, or discharge not in compliance with this Ordinance. The Order shall have immediate effect if the actual or threatened discharge of pollutants to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes, or may cause, interference or pass through. The Superintendent shall implement whatever action is necessary to halt the illegal discharge. The User 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 Ordinance.
- (2) Order to Cease Discharge Within a Time Certain. The Superintendent may issue an Order to Show Cause why an Order to Cease and Desist by a certain time and date should not be issued. The proposed time for remedial action shall be specified in the Order to Show Cause. The Order may also contain conditions as determined appropriate by the Superintendent. In addition to other circumstances as determined appropriate by the Superintendent, the failure to pay applicable permit fees or to comply with any term of an Industrial User Permit or Special Agreement constitutes sufficient cause to issue an Order under this Section.
- (3) Order to Effect Pretreatment. The Superintendent may issue an Order to Show Cause why a User should not be required to pretreat its discharge in accordance with this Ordinance. 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 Ordinance. The plan shall be submitted to the 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 which 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 an order of the Superintendent. 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 Superintendent:

- (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 which 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) In the event a phase or unit of construction or implementation may be effected independently of another phase or unit, establish separate timetables for the phases or unit.
- (4) Order to Perform Affirmative Action. The Superintendent may issue an Order requiring a User to perform any action required under this Ordinance, including, without limitation, requiring a User to submit samples; to install sampling, metering and monitoring equipment; to submit reports; to permit access for inspection, sampling, testing, monitoring and investigations; to reduce or eliminate a discharge or pollutants in a discharge; or to pay permit fees or other applicable charges.

- (5) Order to Terminate Sewer Services. The Superintendent may issue an Order to terminate the sewer services of a User, including physical blockage of the User's sewer connection, for reasons including, without limitation, the following:
- (a) A discharge which violates any general or specific discharge prohibition, including any pretreatment standard or requirement, and which 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 (5)(a), above, 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 Superintendent.
  - (d) A knowing, willful violation of any term, condition or requirement of an Order, Industrial User Permit or Special Agreement.
  - (e) A negligent violation of any major term, condition or requirement of an Order, Industrial User Permit or Special Agreement. 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 or the POTW.
- (6) Order to Show Cause. The Superintendent may issue an Order requiring a User to appear and explain any noncompliance with the requirements of this Ordinance or any permit, order, decision or determination promulgated, issued or made under this Ordinance, and to show cause why more severe enforcement actions against the User should not go forward. A Show Cause hearing shall be held within 10 days after the Order to Show Cause was issued, as follows:
- (a) The hearing shall be conducted and evidence shall be taken by the Superintendent or by an authorized representative designated by the Superintendent. 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. If the hearing is conducted by an authorized representative of the Superintendent, the Superintendent shall thereafter be provided with a written report of the hearing, including transcripts, any other evidence, and any recommendations to the Superintendent for further action.

- (b) Any testimony taken at the hearing shall be under oath and recorded. A copy of the transcript of the hearing shall be made available at cost to any person upon payment of applicable charges for the transcript.
- (c) After reviewing the evidence taken at the hearing, the Superintendent 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 Ordinance.
- (c) Immediate Response to Order by User may be Required. Any User issued an Order by the Superintendent 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 City shall take any action determined as necessary as authorized by this Ordinance, including immediate suspension of water service and/or severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to public health, safety or the environment. The Superintendent may reinstate the wastewater treatment service 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 Superintendent within fifteen (15) days of the occurrence.
- (d) Noncompliance Due to Factors Beyond User's Control. If noncompliance with an Order is unintentional and temporary and due to factors beyond the reasonable control of a User, and the User can demonstrate the

conditions necessary for demonstration of an Upset as provided by Section 9(b) of Article VII, the Superintendent 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 Superintendent. Notice of the amendment, suspension or revocation shall be served upon the User 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 Ordinance.

Sec. 10.05     NOTICE OF VIOLATION

Any person found to be violating a provision of this Ordinance 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 shall be served and shall contain the information as provided by Section 7 of this Article.

Sec. 10.06     CIVIL ADMINISTRATIVE FINES

- (a) If the Superintendent determines that any person has violated, or is violating, any provision of this Ordinance, or any permit, order, decision or determination promulgated, issued or made under this Ordinance, the Superintendent may assess a civil administrative fine in an amount not to exceed \$1000.00 per violation. Each day on which a violation of this Ordinance shall occur or continue is a separate and distinct violation. The fine as authorized by this Section may be assessed in addition to any other charge, fee, surcharge, penalty or fine authorized or levied under this Ordinance.
- (b) If a fine is assessed under this Section, the Superintendent shall cause a written notice of assessment to be served on the violator as provided by Section 7 of this Article.

- (c) In determining the amount of a fine, the Superintendent shall consider 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, and the violator's recalcitrance or efforts to comply. A violator shall bear the burden of demonstrating the presence and degree of any mitigating factors to be considered by the Superintendent in determining the amount of a fine. However, mitigating factors shall not be considered unless the Superintendent determines that the violator has made all good faith efforts to correct and terminate all violations. The fact that a fine may cause severe financial damage or put a violator out of business shall not be determinative of the amount of a fine.
- (d) Any person aggrieved by the assessment of an administrative fine under this Section may request an informal hearing before the Superintendent, a formal hearing before the Wastewater Board of Appeals, or an appeal from a determination of the Wastewater Board of Appeals (as applicable), as provided by Article XI of this Ordinance.
- (e) Fines assessed by the Superintendent under this Section which have not been paid in full within 30 days of receipt of the notice of assessment shall be added to the next scheduled service bill and shall be paid and collected along with other rates, charges, fines or penalties as provided by Section 4 of Article VIII of this Ordinance.

Sec. 10.07      SERVICE OF ORDERS, NOTICES OF VIOLATIONS AND NOTICES OF ASSESSMENTS

Except as otherwise expressly provided by this Ordinance, 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. The person served shall sign and date the order or notice and shall return the signed original copy to the City; provided, that the failure to do so shall not affect the person's obligation to comply with the order or notice.
- (b) Contents. All orders and notices shall contain at least the following information, as applicable and to

the extent known:

- (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 Ordinance or of any permit, order, decision, determination or agreement violated;
  - (4) The basis for determining that a violation has occurred (personal observation, pollutant analysis, etc.);
  - (5) The amount of the fine, penalty 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 Superintendent regarding the contents or requirements as provided by any order or notice. However, a request for additional information shall not extend the time for compliance with an order or notice.

Sec. 10.08

CONTROL AUTHORITY ENFORCEMENT RESPONSE PLAN

The WWTP Superintendent is authorized to 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 Industrial Users. The CAER Plan and any associated regulations developed by the Superintendent shall become effective upon approval by resolution of the Village Council.

**PUBLICATION OF LIST OF USERS IN SIGNIFICANT  
NONCOMPLIANCE**

The POTW shall publish once per year in the largest daily newspaper in the City, a list of Users which, 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 here as those in which 66% or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (b) Technical review criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, SS, fats, oil and grease, and 1.2 for all other pollutants except pH);
- (c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the POTW believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, and has resulted in the POTW's exercise of its emergency authority to halt or prevent the discharge;
- (e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a permit, 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 the Superintendent determines may adversely affect the POTW or any pretreatment program.



Sec. 10.10      JUDICIAL PENALTIES; IMPRISONMENT

Any person convicted of a violation of any provisions of this ordinance shall be punished by a penalty of not more than \$500, or by imprisonment of not more than 90 days, or by both fine and imprisonment in the discretion of the court.

Sec. 10.11      CONTINUING OFFENSE

Each act of violation, and each day or portion of a day that a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance is permitted to exist or occur, constitutes a separate offense and shall be punishable as provided by this Ordinance.

Sec. 10.12      NUISANCE

A violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, is deemed to be a public nuisance. The Village may enforce this Ordinance by injunction or other remedy, including the right to correct any violation and bill the owner or person in charge of the premises for expenses incurred.

Sec. 10.13      REIMBURSEMENT OF VILLAGE

Any person violating any of the provisions of this ordinance, which results in fines or penalties being levied against the Village shall reimburse the Village for the fine or penalty, plus any expenses, loss or damage to the Village occasioned by the violation.

Sec. 10.14      FALSIFICATIONS; TAMPERING WITH SAMPLING/MONITORING DEVICE

It is a violation of the Ordinance for any person to knowingly make false statements, representations or falsify any application, record, report or any other document filed or required under provisions of this Ordinance, or to falsify, tamper with or render inaccurate any sampling/monitoring device required under this Ordinance.

Sec. 10.15      CUMULATIVE REMEDIES

The imposition of a single penalty, fine, order, damage, or surcharge upon any person for a violation of this Ordinance, or of any permit, order, notice or agreement issued or entered into under this Ordinance, shall not preclude the imposition by the Village or City, 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 statutory limitations on penalty amounts. A criminal citation and prosecution of a criminal action against a person shall not be dependent upon or held in abeyance during any civil, judicial, or city administrative proceeding, conference, or hearing regarding the person.

Sec. 10.16      JUDICIAL RELIEF

The Superintendent is hereby empowered, with the Village Attorney, to institute legal proceedings in a court of competent jurisdiction for the abatement of any nuisance, and to seek relief for violations of this Chapter, or of any permit, order, notice or agreement issued or entered into under this Ordinance. The Superintendent may seek temporary or permanent injunctive relief, damages, penalties, costs, and any other relief that a Court may order. The Superintendent may also seek collection of surcharges and penalties which the User has not paid.

ARTICLE XI

ADMINISTRATIVE APPEALS - WASTEWATER BOARD OF APPEALS

Sec. 11.01      WASTEWATER BOARD OF APPEALS; DUTY

In order that the provisions of this Ordinance may be reasonably applied and substantial justice done in instances where unnecessary hardship would result from carrying out the strict letter of this Ordinance, the City Council of the City of Plainwell shall serve as a Wastewater Board of Appeals ("WBA"). The duty of the WBA shall be to consider appeals from final decisions of the Superintendent and to determine, in particular cases, whether any deviation from strict compliance will violate the purposes and intent of this Ordinance or endanger public health, safety or welfare, the environment, or the POTW.

Sec. 11.02      INFORMAL HEARING

- (a) An informal hearing before the WWTP Superintendent may be requested in writing by any User that deems itself aggrieved by any citation, Order, charge, fee, surcharge, penalty, fine or other action. The request for an informal hearing shall be made within 10 days after the date of the Order, charge, fee, surcharge, penalty, fine or action. The request for an informal hearing shall state the reasons for the request and shall include all supporting documents and dates.
- (b) The informal hearing shall be scheduled at the earliest practicable date, but not later than 5 days after receipt of the request, unless the 5 day time period is extended by the mutual written agreement of the

aggrieved party and the Superintendent.

- (c) The hearing shall be conducted on an informal basis at the Waste Water Treatment Plant or at another location designated by the Superintendent.

Sec. 11.03      APPEALS; FORMAL HEARING; MEETINGS OF BOARD

- (a) An appeal from any action of the Superintendent (including any order, decision, determination, citation, charge, fee, surcharge, penalty, fine or other action) may be made to the City Council, acting as the Wastewater Board of Appeals, within 30 days from the date of the action. The appeal may be taken by any person aggrieved by the action. The appellant shall file a Notice of Appeal with the Superintendent and with the WBA. The Notice of Appeal shall specify the grounds for the appeal. Failure to file a timely Notice of Appeal shall be deemed to be a waiver of the appeal.
- (b) Prior to a hearing before the WBA regarding an appeal, the Superintendent shall transmit to the WBA a written summary of all previous action taken in connection with the action being appealed. The WBA may, at its discretion, request the Superintendent to provide further information regarding the action which is the subject of the appeal.
- (c) The WBA shall fix a reasonable time for the hearing of the appeal, shall give due notice of the appeal to interested parties, and shall decide the appeal within a reasonable time.
- (d) Within the limits of its jurisdiction, the WBA may reverse or affirm, in whole or in part, the action appealed from, or may make any order, requirement, decision or determination as, in its opinion, ought to be made in the case under consideration. To that end, the WBA shall have all the powers of the official from whom the appeal is taken.
- (e) The final disposition of the appeal shall be in the form of a resolution by the WBA, either reversing, modifying, or affirming, in whole or in part, the action of the Superintendent. The action of the Superintendent shall not be reversed or modified, in whole or in part, and the WBA shall not otherwise find in favor of the appellant unless at least 3 members of the WBA concur. The decision of the WBA shall be final.

- (f) The WBA shall meet at the times as the Board may determine. There shall be a fixed place of meeting and all meetings shall be open to the public in accordance with applicable laws. The WBA shall adopt its own rules of procedure and keep a record of its proceedings, setting forth findings of fact, the action taken by the board, and the vote of each member upon each question considered. The presence of at least 3 members of the WBA shall be necessary to constitute a quorum.
- (g) The WBA may prescribe the sending of notice to any persons it deems to be interested in a public hearing or meeting held by the WBA.

Sec. 11.04      PAYMENT OF CHARGES, PENALTIES, FINES, FEES

All service charges, penalties, fines, fees, surcharges, costs or expenses outstanding during any appeal process shall be due and payable to the Village or City, whichever is applicable. Upon resolution of any appeal, the respective municipalities shall adjust the amounts due and payable accordingly. However, the adjustments made upon resolution of an appeal shall be limited to the previous 1 year's billing unless otherwise directed by court order. The WBA shall also have the responsibility to 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.

Sec. 11.05      FINALITY OF ADMINISTRATIVE ACTION

If an informal or formal hearing is not demanded within the periods specified by this Article, the administrative action shall be deemed final. If either or both hearings are demanded, the action appealed shall be suspended until a final determination has been made by the Wastewater Superintendent or by the WBA, as applicable, except for Orders to Immediately Cease and Desist Discharge, Orders to Terminate Sewer Services; other emergency Orders or actions where a suspension or delay might endanger human health, the environment, or the POTW; or as otherwise expressly provided by this Ordinance.

Sec. 11.06      APPEALS FROM DETERMINATION OF WBA

Appeals from the determination of the WBA may be made to the Circuit Court for the County of Allegan as provided by law. Appeals under this Section shall be governed procedurally by the Administrative Procedures Act of the State of Michigan (1969 P.A. No. 306, MCLA 24.201 et seq., as amended). All findings of fact, if supported by the evidence, made by the WBA shall be conclusive upon the Court

## ARTICLE XII

### PROTECTION FROM DAMAGE

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance, or equipment which is part of the municipal sewer works.

## ARTICLE XIII

### MUNICIPAL LIABILITY

Neither the Village nor the City shall be responsible for interruptions of service due to natural calamities, equipment failures, or actions of the system Users. It shall be the responsibility of the customer that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

## ARTICLE XIV

### SEVERABILITY

The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given effect without the invalid part or parts.

## ARTICLE XV

### SAVING CLAUSE

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

## ARTICLE XVI

### CONFLICT WITH EXISTING ORDINANCES

All ordinances or parts of ordinances in conflict herewith including Ordinance No. 37 and any other previously adopted Ordinance are hereby repealed.

ARTICLE XVIII

EFFECTIVE DATE

This Ordinance shall take effect twenty (20) days after publication in a newspaper in general circulation within the Village of Martin.

VILLAGE OF MARTIN

Robert Brandon

Its President

Joyce Merrill

Its Clerk

VILLAGE OF MARTIN  
ALLEGAN COUNTY, MICHIGAN

NOTICE OF ADOPTION OF A NEW SEWER USE ORDINANCE

To: The residents and property owners of Village of Martin,  
Allegan County, Michigan, and any other interested  
persons:

PLEASE TAKE NOTICE that at a regular meeting held on the  
12th day of April, 1993 the Village of Martin adopted a  
new Sewer Use Ordinance (being Ordinance No. 47). Said  
Ordinance is summarized below.

ARTICLE I - PURPOSE AND SCOPE - Sets forth the purpose, policy  
and objectives of the ordinance including establishing standards  
and rules for public and private sewers and to prevent the  
discharge of pollutants into the public owned treatment works  
(POTW); and establishes that the ordinance applies to any person  
owning or maintaining any private system.

ARTICLE II - DEFINITIONS - Provides specific definitions for  
various terms and words used within the ordinance.

ARTICLE III - DISPOSAL OF SEWAGE AND WASTEWATER - Sets forth  
general requirements applicable to the disposal of sewage and  
wastewater; the depositing of wastes upon public or private  
property; the need for NPDES permits regarding private sewage  
disposal systems; the requirement of private systems where public  
sewer is not available; the requirement of soil evaluation tests  
and permits to install a private system; the inspection of  
private sewage systems; the type, capacities and location of a  
private system; the operation and maintenance of a private  
system; the requirement for connection to the public sewer, if  
available; and that additional requirements may be applied where  
applicable.

ARTICLE IV - BUILDING SEWERS AND CONNECTIONS - Sets out that  
permits are required for connection to the system; the classes of  
building sewer connection permits; the costs, expenses and  
liabilities of the owner; that separate sewers are required for  
each building with certain exceptions; provides for existing  
buildings; provides applicable code provisions and regulations;  
requires that an approved means of lift be provided when the  
elevation is too low; prohibits connection of surface runoff or  
groundwater; requires that connection to the system conform to  
all applicable building and plumbing codes; requires inspection  
and connection; provides conditions of work for excavations;  
provides for interceptors; and provides for maximum capacity.

ARTICLE V - EXTENSION TO SYSTEM - Provides for extensions to the  
system;

ARTICLE VI - DISCHARGE TO THE POTW; PROHIBITIONS, LIMITATIONS AND

REQUIREMENTS - prohibits discharges to storm sewers or natural outlet; prohibits general discharge of pollutant which cause interference; prohibits the discharge of any pollutant which will cause interference in the POTW; sets forth pretreatment standards and requirements; reserves the right of revision of this Ordinance; sets out that special agreements are not prevented by this Ordinance; prohibits dilution as a substitute for treatment; requires pretreatment prior to point of discharge; and authorizes the superintendent be in control of discharges to the POTW and provides for assessment of fines and penalties for violation hereof; provides for service of orders, and notices of violations and assessments; authorizes the superintendent to develop and implement a Control Authority Enforcement Response (CAER) Plan as required by 40 CFR 403.8(f)(5); requires the publication annually of a list of users which during the previous 12 months were in significant noncompliance with pretreatment standards or requirement; provides for judicial penalties of not more than \$500 and/or imprisonment not to exceed 90 days for violation of this Ordinance; provides for continuing offenses; sets forth that a violation of this Ordinance is a public nuisance; provides that the Village shall be reimbursed by any violator when the violation results in fines being levied against the Village; provides that tampering with sampling/monitoring devices is a violation of this Ordinance; states that the imposition of a single penalty, fine or order upon any person in violation of this Ordinance shall not preclude the imposition by the Village or City of a combination of any or all of those sanctions and remedies; and authorizes the superintendent to seek temporary or permanent injunctive relief to abate any nuisance under this Ordinance.

ARTICLE VII - INDUSTRIAL WASTE CONTROL PROGRAM - Provides that all non-domestic users must notify the Superintendent of the nature and characteristics of their wastewater; requires sampling of discharges to the POTW and lists minimum requirements; requires reporting and notice of pretreatment standards; requires industrial user permits and sets deadlines and requirements for such applications; provides for the confidentiality of any information submitted to the Village or City in the administration of this Ordinance; requires the retention and preservation of records, books and documents related to matters regulated by this Ordinance; sets forth minimum requirements for industrial users to respond to and report accidental discharges to the POTW; provides that and upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if all requirements of Section 10(b) below are met; prohibits bypass of industrial wastes from any portion of an industrial user's facility; sets out additional affirmative defenses; provides for review and approval of the design and installation of preliminary treatment plants;

ARTICLE VIII - USER CHARGE SYSTEM - Provides for the recovery of



costs from users of the POTW by way of Readiness-to-Serve Charges User Charges and surcharges; and provides the amounts to be charged under this Ordinance.

ARTICLE IX - INDUSTRIAL COST RECOVERY SYSTEM (reserved) - This section is reserved for future use.

ARTICLE X - ADMINISTRATION AND ENFORCEMENT - Provides that the operation, maintenance, alteration and management of the POTW shall be under the supervision and control of the WWTP superintendent; and further provides the powers of said superintendent including inspection and monitoring authority, authorization to issue orders, and notice of violation of any provision of this Ordinance;

ARTICLE XI - ADMINISTRATIVE APPEALS - WASTEWATER BOARD OF APPEALS - States that the City Council of the City of Plainwell will serve as the Wastewater Board of Appeals and further outlines the duties to said Board of Appeals; sets out the charges, penalties, fines and fees for violations; provides that the administrative action shall be deemed final unless an informal or formal hearing is demanded within the periods specified by this Article; provides that appeals from the determination of the Board of Appeals may be made to the Allegan County Circuit Court.

ARTICLE XII - PROTECTION FROM DAMAGE - Provides that no person shall willfully destroy, damage or tamper with equipment belonging to the wastewater system.

ARTICLE XIII - MUNICIPAL LIABILITY - Provides that neither the Village nor the City shall be responsible for interruptions of service due to natural calamities, equipment failures or actions of the system users.

ARTICLE XIV - SEVERABILITY - Provides that if an section or clause of this Ordinance is found to be invalid, such invalidity shall not affect the validity of any other part of this Ordinance.

ARTICLE XV - SAVING CLAUSE - Provides that all prosecutions commenced prior to the effective date of this Ordinance shall be conducted under the Ordinance provisions in effect prior to the effective date of this Ordinance.

ARTICLE XVI - CONFLICT WITH EXISTING ORDINANCES - Provides that all ordinances or parts of ordinances, including Ordinance 37, in conflict herewith are repealed.

ARTICLE XVII - EFFECTIVE DATE - Provides that the effective date of this Ordinance shall be 20 days following adoption and publication of the same.

PLEASE TAKE FURTHER NOTICE that the full text of the ordinance has been posted in the office of the Village Clerk and in the following five public places within the Village for public examination within seven days preceding the publication of this notice

1. J. C. Wheeler Library
2. Martin Post Office
3. First of America Bank
4. Martin Police Department
5. Carman Pharmacy

PLEASE TAKE FURTHER NOTICE that copies of said ordinance may be purchased or inspected at the office on the Village Clerk as set forth below during regular business hours of regular business days following the date of the within publication.

VILLAGE OF MARTIN

*Joyce Merrill*, Clerk