

- taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC. The TRC equals 1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH;
- c. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of village personnel or the general public;
 - d. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the exercise of emergency authority under this article by village personnel to halt or prevent such a discharge;
 - e. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a letter of communication or enforcement order for starting construction, completing construction, or attaining final compliance;
 - f. Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, compliance monitoring reports, other reports as requested and reports on compliance with compliance schedules;
 - g. Failure to accurately report noncompliance;
 - h. Any other violation or group of violations which the superintendent determines will adversely affect the operation or implementation of the pretreatment program.
- (9) *Notice of violation/ repeat sampling and reporting.* If sampling by a user indicates a violation, the user must notify the superintendent within twenty-four (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 superintendent within fourteen (14) days after becoming aware of the violation. The user is not required to resample if the superintendent waives this requirement.
- (10) *Permit enforcement.* The conditions of the permit shall be enforced by the superintendent in accordance with the provisions of this article. Any permit holder who exceeds the conditions and provisions of the permit or otherwise discharges or allows or permits the discharge of wastewater or pollutants in violation of the permit or any of the requirements of this article, will be subject to the enforcement provisions of section 53-305 and the penalty provisions of section 53-310.
- (11) *Accidental discharge or bypass notice and requirements.* A person discharging wastes, or any bypass of the industrial pretreatment system including any slug loading to any sewerage system delivering wastewater to the treatment plant shall notify the POTW within twenty-four (24) hours upon accidentally or non-accidentally discharging wastes in violation of this article or the user's permit. The telephone number of the POTW shall be posted on the premises of the user. This notification shall be followed,

within five (5) days, by a detailed written report, describing the cause of the accident or bypass, duration, discharge limit violations, and measures being taken to prevent future occurrence. Dates shall be set for completion of such measures and the completion shall be reported to the superintendent. Notification shall not relieve a user of its responsibility to comply with any conditions, limitations or special requirements which may contain, but not be limited to, the following:

- a. Limits on rate and time of discharge or requirements for flow regulation and equalization.
- b. Installation of inspection and sampling facilities, including access to such facilities.
- c. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for tests and reporting schedule.
- d. Requirements for submission of discharge or technical reports.
- e. Special service charges or fees.
- f. Pretreatment requirements.
- g. Obtaining and submission of samples, with chemical analyses, of all substances that may appear in the sewage discharge.
- h. A continuously updated listing of inventory of all activities, facilities and plant processes on the premises, or of any substance, chemical or solution which is present on the premises or produced by such activities or processes, including all such materials which are or could be discharged, with normal usage and amount on hand shown therein.
- i. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a public sewer as established by the superintendent.
- j. Limits on the average and maximum wastewater constituents and characteristics.
- k. Requirements for maintaining and returning plant records relating to wastewater discharge as specified by the superintendent, and affording the superintendent access thereto.
- l. Requirements for notification to the superintendent of introduction of any new wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the sewerage system.
- m. Compliance schedules.
- n. Requirements for containment of specific materials, processes, or facilities for the prevention of accidental discharge.
- o. Other conditions as deemed appropriate by the superintendent to ensure compliance with this article.

- (12) *Permit changes.* Any change in the operation, activity, processes or material used which affect the accuracy of any information supplied on the permit application form, or in strengths and volumes of waters and wastewaters, shall be reported immediately to the superintendent for determination of whether a need exists to change conditions of the permit and related fees. The superintendent's decision shall be final. The permit shall be modified to include any necessary expense, loss or damage to the sewerage or treatment system, or for any fines imposed on the village on account thereof.
- (13) *Permit variations.* The superintendent may but shall not be required, to waive the requirement for an industrial permit for any user that does not have a:
- a. Total wastewater flow of twenty-five thousand (25,000) gallons or more per average working day;
 - b. Discharge containing measurable toxic pollutants; or
 - c. Discharge of pollutants equal to or less than any of the following amounts:

BOD	=	40 lbs/day
Suspended Solids	=	40 lbs/day
- (14) *Bypass of pretreatment.*
- a. Bypass is prohibited and the POTW may take enforcement action against the sewer user for the bypass, except when:
 - (i) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated waters, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and the user submitted notices as required under subsection (k)(14)c. of this section;
 - (iii) If the user knows in advance of the need for a bypass, it shall submit prior notice to the superintendent, at least ten (10) days before the date of the bypass, if possible. A user shall submit oral notice to the superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause, the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned

to reduce, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- b. A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if the bypass is essential for the maintenance to assure efficient operation.
- c. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the conditions listed in subsection a. of this section.
- d. "Upset:"
 - (i) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection d.(ii), below, are met.
 - (ii) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - 1. An upset occurred and the user can identify the cause(s) of the upset;
 - 2. The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
 - 3. The user has submitted the following information to the superintendent within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
 - (aa) A description of the indirect discharge and cause of noncompliance;
 - (bb) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (cc) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
 - (iii) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
 - (iv) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
 - (v) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards 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.

(15) *Surveillance, inspections and evaluation.*

- a. The superintendent shall make an on-site inspection of each SIU each year, at any time during the calendar year. The inspection shall be to determine compliance with the sewer users permit and all pertinent rules and regulations. The superintendent, during the annual inspection, shall notify each site of any applicable requirements under sections 204(b) and 405 of the Act, and subtitles C and D of RCRA.
- b. The superintendent shall evaluate, at least once every two (2) years, whether each SIU needs a plan to control slug discharges as defined under subsection 53-302(b), definitions, of this article. The results of such slug discharge shall be provided upon request. If it is determined by the superintendent that a slug control plan is needed, the plan shall contain a description of discharge practices, including nonroutine batch discharges, description of stored chemicals, procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 40 CFR 403.5(b) with procedures for a followup written notification within five (5) days, and 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 runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, and measures and equipment for emergency responses.
- c. The superintendent shall sample the discharge from each SIU at least once per year. The superintendent may make random inspections of each SIU.

(16) *Notification of hazardous waste discharges.* Hazardous wastes are prohibited from being discharged into the POTW.

(17) *National categorical pretreatment standards.*

- a. Where a categorical pretreatment standard is expressed only in terms of either mass or the concentration of a pollutant in wastewater, the superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6 (c).
- b. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard the superintendent shall impose an alternate limit using the combined waste formula in 40 CFR 403.6 (e).
- c. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR

403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

- d. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(1) *Minimum permit contents.*

(1) Wastewater discharge permits must contain:

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed three (3) years;
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to the POTW, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. Effluent limits are based on applicable pretreatment standards;
- d. Self-monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law; and
- e. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the developments and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharge to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharge to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

- g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- h. Other conditions as deemed appropriate by the POTW to ensure compliance with this article, and state and federal laws, rules, and regulations.

(Ord. of 4-11-06, §§ 3.01—3.12)

Sec. 53-304. Restricted information.

General. All information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the superintendent that the release of such information to the general public would divulge information or processes or methods that would give a business advantage to competitors. However, all such information shall be made available to governmental agencies for use in making studies or for the use of the superintendent or the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the information. No information regarding wastewater characteristics and constituents shall be considered confidential information and all such information and records shall be available to the superintendent and the public without restriction.

(Ord. of 4-11-06, § 4.01)

Sec. 53-305. Enforcement and termination of service.

(a) *Corrective measures.* If it is determined that a discharge of wastes or other activity or inactivity has been occurring or threatens to occur, in violation of this article or provisions of a discharge permit, the superintendent may require the user to submit for approval in a specified time period, with such modifications considered necessary, a detailed time schedule of corrective and/or preventive action. Failure to provide such time schedule of corrective and/or preventive measures within the time limits specified is considered a violation of this article. Enforcement and termination of service procedures are outlined in the village "pretreatment procedures and enforcement response plan" document on file at the village office.

(b) *Search warrants.* If the superintendent has been refused access to a building, structure, property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the village designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the superintendent may seek issuance of a search warrant from the village.

(c) *Notification procedure.* In the event of any one or more of these actions being taken, the superintendent shall promptly notify the user in writing of such action and the specific reasons thereof, which notice shall be personally served upon the individual identified for that purpose by the user.

(d) *Notice of noncompliance (NON)*. The village's first response to most violations is the notice of noncompliance (NON). In general, the NON is used for isolated violations that have not caused immediate harm to the environment or the sewerage system. The NON is prepared and issued by the superintendent. The NON discusses the circumstances of the violation and the consequences of continued violation. The superintendent will issue the NON within thirty (30) days from when the superintendent identifies the noncompliance.

(e) *Notification of violation (NOV)*. When the POTW finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the POTW may serve upon that user a written notice of violation. Within fourteen (14) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the POTW. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the NOV. Nothing in this section shall limit the authority, of the POTW to take any action, including emergency actions or any other enforcement action, without first issuing a NOV.

(f) *Publication of the names of users in significant noncompliance*. At least once per year, the village will publish the names of the users that were in one or more of the following states of noncompliance at any time during the time since the time covered by the previous published list:

- (1) *Chronic violations*: Sixty-six (66) percent 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 any one pollutant.
- (2) *Technical review criteria violations*: Thirty-three (33) percent or more of all of the measurements taken during a six-month period for a particular pollutant equal or exceed the daily maximum limit or the average limit for that pollutant multiplied by:
 - a. 1.4, for BOD, TSS, fats, oil, and grease;
 - b. 1.2, for all other pollutants except pH; or
 - c. One for pH.
- (3) *Other violations causing pass through or interference*: Any violation of a daily maximum or long-term average limit that the village determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of village personnel or the general public.
- (4) *Hazardous discharges*: Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the village's exercise of its emergency authority to halt or prevent a discharge.
- (5) *Failure to comply with a compliance schedule*: Failure to start construction, complete construction, or attain compliance within ninety (90) days after the date contained in a compliance schedule, wastewater discharge permit, or order.

- (6) *Failure to report:* Failure to provide, within thirty (30) days after the due date, any required report, such as a baseline monitoring report, an initial compliance report, a periodic compliance report, or a progress report.
- (7) *Inaccurate reporting:* Failure to accurately report noncompliance; or
- (8) *Other violations:* Any other violation or group of violations that the superintendent determines adversely affects the sewerage system, especially violations that remain uncorrected for more than forty-five (45) days.

The village will publish the list in the newspaper with the largest circulation in the area served by the village.

(g) *Consent orders.* The superintendent may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

(h) *Cease and desist.* The superintendent may issue orders to cease and desist if it is determined that a discharge of wastes has been taking place, or threatens to take place in violation of prohibitions or limitations of this article, or the provisions of a discharge permit, and direct those persons not complying with such prohibitions, limits, requirements, or provisions to comply immediately, or comply in accordance with a time schedule provided by the superintendent, and to take appropriate or remedial preventive action in the event of a threatened violation.

(i) *Termination.* The superintendent may revoke any discharge permit or terminate or cause to be terminated, wastewater service to any user if the superintendent has reasonable grounds to believe a violation of this article or of a permit issued pursuant to this article exists or if a discharge of wastes or wastewater threatens to cause a violation of this article or such a permit. If an excessive discharge occurs or threatens to occur, the superintendent may immediately:

- (1) Reject the waste or wastewater to immediately abate such condition, or any hazard or nuisance resulting therefrom;
- (2) Upon providing the user informal notice of such action, sever any sewer connection serving the user's premises to immediately and effectively halt or prevent such discharge; or
- (3) Require immediate pretreatment of the waste to an acceptable condition for discharge to the sewerage system.

(j) *Civil litigation.* If the superintendent has determined that a user has failed to comply with the village regulations, the user's wastewater discharge permit, any other applicable local, state, or federal law, or a notice of violation or order issued by the superintendent, then the superintendent may commence judicial proceedings, through the village attorney for

appropriate relief. Generally, the superintendent will utilize civil litigation in response to gross or persistent violations or the discharge of prohibited substances. The village shall be entitled to recover its expenses of enforcement, including its reasonable attorney fees.

(k) *Criminal prosecution.* Making a false statement or certification in any application, record, report, plan, or other document or making a monitoring device or method inaccurate may result in punishment under the criminal laws of Michigan in addition to civil relief. If the village attorney, after consultation with the superintendent, determines that criminal prosecution is appropriate in a particular case, then the village attorney will refer the case to the proper authorities for prosecution. Depending upon the case, the proper authority may be a county prosecuting attorney, the Attorney General's office for the State of Michigan, or the Environmental Protection Agency and United States Department of Justice.

(Ord. of 4-11-06, §§ 5.01—5.11)

Sec. 53-306. Charges and fees.

(a) *Purpose.* It is the purpose of this section to provide for the payment of charges and fees by dischargers to the POTW and sewerage system to compensate the village for the cost of administration and enforcement of this article.

(b) *Charge and fee schedules.* The village shall adopt by resolution of the village council and amend from time to time as required, charge and fee schedules [maintained and kept on file in the village clerks office.] which may include:

- (1) Permit application fees;
- (2) Permit preparation and issuance fees;
- (3) Fees for monitoring, inspections and surveillance procedures;
- (4) Fees for filing appeals;
- (5) Fees for reviewing accidental discharge procedures and construction;
- (6) Fees for consistent removal;
- (7) Fees for setup and operating the pretreatment program;
- (8) Other fees deemed necessary.

(Ord. of 4-11-06, §§ 6.01, 6.02)

Sec. 53-307. Appeal procedure.

General. There shall be no administrative appeal from orders of noncompliance, including cease and desist orders, or determinations issued by the superintendent interpreting or implementing the provisions of this article, or in any permit issued hereunder. Such orders, or determinations shall be subject only to judicial review.

(Ord. of 4-11-06, § 7.01)

Sec. 53-308. Agreements.

General. No provision of this article shall be construed as preventing any special agreement or arrangement between the village and any person whereby sewage or waste of unusual strength or character may be accepted by the village for treatment, subject to the payment by such person of such additional charges as may be reasonable, except that the applicable state or federal standards regarding prohibited discharges shall not be waived and a waiver of the national categorical pretreatment standards shall be obtained only through the procedures established in 40 CFR 403.

(Ord. of 4-11-06, § 8.01)

Sec. 53-309. Protection from damage.

General. No person shall break, damage, destroy, deface, or tamper with any property structure or appurtenances which is a part of the village sewerage system. No person shall, without a permit, uncover or connect to any structure or appurtenance which is a part of the village sewerage system.

(Ord. of 4-11-06, § 9.01)

Sec. 53-310. Violations and penalties.

(a) *Public nuisance.* Any discharge of waste into the sewerage system or other activity or inactivity, that is in violation of this article, or a violation of any condition of a discharge permit issued pursuant to this article, or of any state, federal or village laws or regulations including categorical pretreatment standards, or which is or threatens to be an excessive discharge, or which does or threatens to contaminate any surface or subsurface waters, is hereby declared to be a public nuisance per se. No user or industry, or any person responsible for or acting on behalf of such a user or industry, shall cause, create, allow or maintain such a nuisance.

(b) *Injunction infraction.*

- (1) Injunctive relief. Whenever a discharge of wastes or other material or pollutants or other activity or inactivity is in violation of the provisions of this article; of a permit issued pursuant to this article; or of any state, federal or village law or regulation, or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance, the superintendent acting on behalf of the village may cause a petition to be filed in the appropriate court of law for the issuance of a preliminary or permanent injunction or both, as may be appropriate in restraining the continuance of such discharge, and such court may order any such condition, nuisance or violation abated immediately and may order whatever further relief as is necessary to prevent reoccurrence of any such condition, nuisance or violation.
- (2) The village may recover costs incurred as a consequence of sampling and monitoring expenses, increased operational and maintenance expenditures for the sanitary sewer system or treatment plant, or increased sludge handling expenditures, and reasonable

attorneys' fees, court costs and other expenses associated with enforcement activities. Such costs shall be recoverable from the person found to have violated this article or the orders, rules, regulations or permits issued under this article.

(c) *Civil penalties.*

- (1) A user who has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder or any other pretreatment standard or requirement shall be responsible for the violation punishable as a civil infraction.
- (2) The superintendent, or his designee, is hereby authorized to issue municipal civil infraction citations under this article directing alleged violators to appear in court or to issue municipal civil infraction notices directing alleged violators to appear at the Village of Elkton Department of Public Works as provided under the ordinances of the village.
- (3) Notwithstanding any provision to the contrary the amount of a municipal civil infraction found due in response to the issuance of a municipal civil infraction notice for a violation of this article shall be according to the fee schedule in subsection 53-306(b). A copy of this schedule shall be posted at the Village of Elkton Department of Public Works.
- (4) In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (5) In addition to the penalties provided in this article, the village may recover costs incurred as a consequence of sampling and monitoring expenses, increased operational and maintenance expenditures for the sanitary sewer system or treatment plant, or increased sludge handling expenditures and reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities. Such costs shall be recoverable from the person found to have violated this article or the orders, rules, regulations or permits issued under this article.

A civil infraction shall not be a bar against or a prerequisite for taking any other action against a user.

(d) *Misdemeanor.*

- (1) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issue hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine per violation, per day, as listed in the fee schedule in subsection 53-306(b) of this article, or imprisonment for not more than ninety (90) days, or both.
- (2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty, as listed in the fee schedule, or be subject to

imprisonment for not more than ninety (90) days. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

- (3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine per violation, per day, as listed in the fee schedule in subsection 53-306(b) of this article, or imprisonment for not more than ninety (90) days, or both.

(e) *Penalty exemptions.* The remedies provided for in this article are not exclusive. The village may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the village's enforcement response plan. However, the village may take other action against any user when the circumstances warrant. Further, the village is empowered to take more than one enforcement action against any noncompliant user.

(f) *Waste violation service charges.* When a discharge of wastes or any other material, causes an obstruction, damage, unusual operational problems or any other impairment to the sewerage system, or causes contamination of surface or subsurface waters, the superintendent may assess a charge against the violator equal to the cost required to clean or repair the facility or otherwise correct the problems, and may add such costs to the violator's waste service charge.

(g) *Affirmative defense.* A user shall have an affirmative defense in any action alleging a violation of the general prohibitions established under 40 CFR 403.5 (a)(1) and the specific prohibitions in 40 CFR 403.5 (b)(3), (b)(4), (b)(5), (b)(6), and (b)(7) by demonstrating cause as stated under 403.5(a)(2)(i) and (ii). Affirmative defense is not allowed for violations of explosion hazard, corrosion pH less than five (5), trucked waste, or toxic vapors.
(Ord. of 4-11-06, §§ 10.01—10.07)

Sec. 53-311. Supplemental enforcement action.

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

(b) *Liability, insurance.* The village may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

(c) *Water supply severance.* Whenever a user has violated or continues to violate any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

(d) *Contractor listing.* Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the village. Existing contracts for the sale of goods or services to the village held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the village.
(Ord. of 4-11-06, §§ 11.01—11.04)

Sec. 53-312. Rules and regulations.

General. The village president may authorize such rules and regulations, not in conflict with the provisions of this article, relative to industrial pretreatment, and no person shall fail to comply with any such rule or regulation.
(Ord. of 4-11-06, § 12.01)

Sec. 53-313. Records retention.

General. All users subject to this article shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a user in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the village pursuant hereto shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.
(Ord. of 4-11-06, § 13.01)

Sec. 53-314. Miscellaneous.

(a) *Removal credits.* Where applicable, the superintendent may elect to initiate a program of removal credits as part of this article to reflect the POTW's ability to remove pollutants in accordance with 40 CFR Part 403.7.

(b) *Net/gross calculations.* The superintendent may elect to adjust categorical pretreatment standards to reflect the presence of pollutants in the user's intake water, in accordance with 40 CFR Part 403.15.

(c) *Right of revision.* The village reserves the right to amend this article to provide more stringent limitations or requirements on discharges to a POTW where deemed necessary to comply with the objectives set forth in subsection 53-301(b) of this article.

(d) *Severability.* If any provision, paragraph, word, section, or subsection of this article is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, or subsections shall not be affected and shall continue in full force and effect.

(e) *Conflict.* All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this article are hereby repealed to the extent of such inconsistency or conflict.

(f) *Rescind.* Article V or any provision of any other existing ordinances in conflict herewith are hereby rescinded.

(g) *Effective date.* This article shall take effect and be in force thirty (30) days after its publication.

(Ord. of 4-11-06, §§ 14.01—14.07)

Sec. 53-315. Toxic pollutants.

The following is a list of the U.S. EPA priority pollutants consolidated with the current critical materials register compiled by the Michigan Department of Natural Resources.

ORGANICS

1. acids
2. acenaphthene
3. acetone cyanohydrin
4. 2-acetylaminofluorene
5. acrolein
6. acrylic acid
7. acrylonitrile
8. allyl chloride
9. 2-aminoanthraquinone
10. aminoazobenzene
11. o-aminoazotoluene
12. 4-aminobiphenyl
13. 3-amino-9-ethylcarbazole
14. 1-amino-2-methylanthraquin
15. aminotriazole (amitrole)
16. aniline
17. aniline hydrochloride
18. o-anisidine
19. o-anisidine hydrochloride
20. benz(a)anthracene

21. benzene
22. benzidine
23. benzidine salts
24. benzo(a)pyrene
25. brucine
26. carbon tetrachloride
27. chlorinated benzenes
 - a. chlorobenzene
 - b. 1,2,4-trichlorobenzene
 - c. 1,2-dichlorobenzene
 - d. 1,3-dichlorobenzene
 - e. 1,4-dichlorobenzene
28. chlorinated dibenzofurans
29. chlorinated dioxins
30. chlorinated ethanes
 - a. 1,1,1-trichloroethane
 - b. 1,1-dichloroethane
 - c. chloroethane
 - d. 1,1,2,2-tetrachloroethane
31. chlorinated naphthalene
 - a. 2-chloronaphthalene
32. chlorinated phenols
 - a. 2-chlorophenol
 - b. parachlorometa-cresol
 - c. 2,4-dichlorophenol
33. 1-chloro-2,3-epoxypropane
34. chloroalkyl ethers
 - a. 2-chloroethyl vinyl ether (mixed)
35. bis(2-chloroethyl)ether
36. chloroform
37. bis-2-chloromethyl)ether
38. 3-(chloromethyl)pyridine hydrochloride
39. 1-(4-chlorophenyl)-3, 3-dimethyl triazene
40. 4-chloro-m-phenylenediamine

41. 4-chloro-o-phenylenediamine
42. chloroprene
43. 5-chloro-o-toluidine
44. p-cresidine
45. 2,3-diaminoanisole sulfate
46. 4,4-diaminodiphenyl ether
47. 2,4-diaminotoluene
48. dibenz(a,h)anthracene
49. tris(dibromopropyl)phosphate
50. di-n-butyl phthalate
51. 3,3-dichlorobenzidine
52. 3,3-dichlorobenzidine salts
53. 1,2-dichloroethane
54. dichloroethylenes
 - a. 1,1-dichloroethylene
 - b. 1,2-trans-dichloroethylene
55. dichloropropane and dichloropropene
 - a. 1,3-dichloropropylene; (1,3-dichloropropene)
 - b. 1,2-dichloropropane
56. 1,2:3,4-diepoxybutane
57. diethyl sulfate
58. 4-dimethylaminoazobenzene
59. dimethylhydrazines
60. 2,4-dimethylphenol
61. 4,6-dinitro-o-cresol
62. 2,4-dinitrophenol
63. 2,4-dinitrotoluene
64. dinitrotoluene
 - a. 2,6-dinitrotoluene
65. di-n-octyl phthalate
66. 1,4-dioxane
67. 2,3-epoxy-1-propanal
68. ethylbenzene
69. ethylene dibromide

70. ethyleneimine
71. ethylene oxide
72. ethylene thiourea
73. bis(2-ethylhexyl)phthalate
74. ethylmethanesulfonate
75. fluoranthene
76. 2-(2-formylhydrazino)-4-(5-nitro-2-furthiazole)
77. Haloethers
 - a. 4-chlorophenyl phenyl ether
 - b. 4-bromophenyl phenyl ether
 - c. bis(2-chloroisopropyl) ether
 - d. bis(2-chloroethoxy)methane
78. Halomethanes
 - a. methylene chloride; (dichloromethane)
 - b. methyl chloride; (chloromethane)
 - c. methyl bromide; (bromomethane)
 - d. bromoform; (tribromomethane)
 - e. dichlorobromomethane
 - f. trichlorofluoromethane
 - g. dichlorodifluoromethane
 - h. chlorodibromomethane
79. hexachlorobenzene (HCB)
80. hexachlorobutadiene
81. hexachlorocyclohexane
82. hexachlorocyclopentadiene
83. hexachloroethane
84. hydrazobenzene
85. hydroquinone
86. N-(2-hydroxyethyl)ethyleneimine
87. isophorone
88. lactonitrite
89. malachite green
90. methylenebis(2-chloroaniline)
91. 4,4-methylenabis(2-methylaniline)

92. 4,4-methylenebis(N,N-dimethylaniline)
93. 1,2(methylenedioxy)-4-propenyl benzene
94. methyl hydrazine
95. 1-methylnaphthalene
96. 2-methyl-1-nitroanthraquinone
97. mustard gas
98. 1,5-naphthalenediamine
99. 1-naphthylamine
100. 2-naphthylamine
101. 5-nitroacenaphthene
102. 5-nitro-o-anisidine
103. nitrobenzene
104. 4-nitrobiphenyl
105. nitrogen mustard
106. 2-nitrophenol
107. 4-nitrophenol
108. Nitrosamines
 - a. N-nitrosodiphenylamine
 - b. N-nitrosodi-n-propylamine
109. N-nitroso-n-butyl-N-(4-hydroxybutyl)amine
110. N-nitrosodiethylamine
111. N-nitrosodimethylamine
112. p-nitrosodiphenylamine
113. N-nitroso-N-ethylurea
114. N-nitroso-N-methylurea
115. N-nitroso-N-methylurethane
116. N-nitrosomethylvinylamine
117. N-nitrosomorpholine
118. N-nitroso-N-phenylhydroxyl-amine, ammonium salt
119. N-nitrososarcosine
120. pentachloronitrobenzene
121. pentachlorophenol
122. peroxyacetic acid
123. phenol

124. Phthalate esters
 - a. butyl benzyl phthalate
 - b. diethyl phthalate
 - c. dimethyl phthalate
125. piperonyl sulfoxide
126. polybrominated biphenyls (PBB)
 - a. 3,4-benzofluoroanthene
 - b. benzo(k) fluoranthene; (11, 12-benzofluoranthene)
 - c. chrysene
 - d. acenaphthylene
 - e. anthracene
 - f. benzo(ghi)perylene; (1,12-benzoperpylene)
 - g. fluorene
 - h. phenathrene
 - i. indeno(1,2,3-cd)pyrene; (2,3-0-phenylenepyrene)
 - j. pyrene
 - k. naphthalene
127. polychlorinated biphenyls (PCB)
128. Polynuclear aromatic hydrocarbons
129. 1,3-propane sultone
130. B-proplolactone
131. 5-propyl-1,3-benzodioxole
132. propyleneimine
133. semicarbazide
134. styrene
135. tetrachloroethylene(perchloroethylene)
136. thioacetamide
137. 4,4'-thiodianiline
138. thiourea
139. toluene
140. o-toluidine
141. o-toluidine hydrochloride
142. triaryl phosphate esters
143. 1,1,2-trichloroethane

- 144. trichloroethylene
- 145. trichlorophenols
- 146. 2,4,5-trimethylaniline
- 147. trimethylphosphate
- 148. vinylchloride
- 149. xylene

A. INORGANICS

- 150. antimony
- 151. arsenic
- 152. beryllium
- 153. cadmium
- 154. chromium
- 155. cobalt
- 156. copper
- 157. cyanides
- 158. hypochlorite
- 159. lead
- 160. lithium
- 161. mercury
- 162. nickel
- 163. selenium
- 164. silver
- 165. thallium
- 166. zinc

B. INORGANICS

- 167. acids
- 168. chloramines
- 169. chlorine
- 170. hydrazine
- 171. hydrogen sulfide

C. INORGANICS

- 172. asbestos (fibrous)

PESTICIDES

173. aldicarb
174. aldrin
175. 4-aminopyridine
176. anilazine
177. antimycin A
178. azinphos-ethyl
179. azinphos-methyl
180. barban
181. bendiocarb
182. benomyl
183. bromoxynil
184. 2(p-tert-butylphenoxy)-isopropyl-2-chloroethyl sulfite
185. captafol
186. captan
187. carbaryl
188. carbofuran
189. carbophenothion
190. chlordane
191. chlordecone
192. chlorfenvinphos
193. chlorobenzilate
194. chlorpyrifos
195. chlonitralid
196. coumaphos
197. crotoxyphos
198. cycloheximide
199. DDT
200. demeton
201. diallate
202. diazinon
203. dibromochloropropane (DBCP)
204. dichlone