

Board member WEBBER supported by Boardmember BAIRD moved the adoption of the following ordinance:

ORDINANCE NO. 93-9

**SEWER DISCHARGE REQUIREMENTS AND
ENFORCEMENT PROCEDURES ORDINANCE**

THE TOWNSHIP OF VERGENNES ORDAINS:

Section 1.

The purpose of this ordinance is to:

- (a) establish uniform requirements for direct and indirect contributors to Lowell Township's wastewater collection system and to enable Lowell Township and Vergennes Township to comply with the terms of the Inter-jurisdictional Sanitary Sewer Use Agreement dated August 1, 1987, between Lowell Township and the city;
- (b) prevent the introduction of pollutants into the system which will:
 - (1) interfere with the operation of or cause damage to the sanitary sewer system;
 - (2) cause violation of the city's NPDES permit;
 - (3) contaminate the sludge;
 - (4) pass through the sanitary sewer system, inadequately treated, into receiving waters or the atmosphere;
 - (5) pose a health threat to city or township employees; or
 - (6) be otherwise incompatible with the sanitary sewer system.
- (C) improve the opportunity to recycle and reclaim waste-waters and sludges from the sanitary sewer system and to provide waste minimization;
- (d) provide for equitable distribution of the cost of the sanitary sewer system; and
- (e) establish an administrative procedure for review of township decisions under this ordinance.

Section 1A.

Abbreviations.

The following abbreviations shall have the designated meanings:

BOD	-	biochemical oxygen demand
CFR	-	Code of Federal Regulations
COD	-	chemical oxygen demand
DNR	-	Michigan Department of Natural Resources
EPA	-	United States Environmental Protection Agency
l	-	liter
mg	-	milligrams
mg/l	-	milligrams per liter
NPDES	-	National Pollutant Discharge Elimination System
SIC	-	standard industrial classification
TSS	-	total suspended solids
USC	-	United States Code

Section 2.

Definitions.

In addition to the definitions set forth elsewhere in this chapter, the following definitions apply to the terms used in this ordinance:

- (a) "Act" means the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1987, as amended, 33 USC 1251, et seq.
- (b) "Authorized Representative" means:
 - (1) in the case of a corporation, a president or vice president of the corporation in charge of a principal business function;
 - (2) in the case of a partnership or proprietorship, a general partner or proprietor; and
 - (3) an authorized representative of the individuals designated above if (a) such representative is responsible for the overall operation of the facilities from which the discharge into the sanitary sewer system originates; (b) the authorization is in writing and (c) the written authorization is submitted to Lowell Township.
- (c) "Bulkhead" means any method or device that prevents a discharge to the system.
- (d) "Bypass" means the intentional diversion of wastewater from any portion of an industrial user's treatment facility.

(e) "Categorical pretreatment standard" means a regulation promulgated by the EPA under 33 USC 1311 and 1317, which applies to a specific category of industrial users.

(f) "city" means the city of Lowell, Kent County, Michigan.

(g) "Concentration" means the amount of a substance in weight, molds, or equivalents contained in unit volume.

(h) "Domestic waste" means human waste and other waste related to personal or residential sanitation.

(i) "Domestic wastewater" means wastewater that contains only domestic waste.

(j) "Existing source" means any building, structure, facility or installation that is discharging or that may discharge pollutants to the sanitary sewer system and that is not a new source.

(k) "Flow proportioned composite sample" means a combination of individual samples of equal volume taken at equal intervals of flow without consideration of the time between individual samples.

(l) "Grab sample" means a sample taken on a one-time basis without consideration for flow or time.

(m) "Industrial user" or "user" means any person who introduces pollutants into the sanitary sewer system from any non-domestic source regulated under the Act, state law or local ordinance.

(n) "Interference" means any discharge which alone or in conjunction with a discharge or discharges from other sources, both:

(1) inhibits or disrupts the sanitary sewer system and any of its processes or operations, or its sludge use or disposable; and

(2) therefore is a cause of a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal.

(o) "Lowell Township" means the Township of Lowell, Kent County, Michigan.

(p) "Lowell Township Board" means the Township Board of Lowell Township.

(q) "Lowell Township Supervisor" means the Township Supervisor of Lowell Township or his/her persons designated by the Lowell Township Supervisor.

(r) "NPDES permit" means a permit issued pursuant to section 402 of the Federal Water Pollution Control Act, as amended, 33 USC 1342, et seq.

(s) "New source" means any building, structure, facility or installation that is discharging or that may discharge pollutants to the sanitary sewer system and for which the construction commenced after the publication of proposed categorical pretreatment standards that would be applicable to the source and that (i) is constructed at a site at which no other source is located, or (ii) totally replaces the process or production equipment that causes the discharge of pollutants at an existing source, or (iii) has process or production equipment substantially independent from the equipment of an existing source at the same site.

(t) "Pass-through" means a discharge which exits the sanitary sewer system into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the city's NPDES permit (including an increase in the magnitude or duration of a violation).

(u) "Person" means any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by context.

(v) "pH" means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(w) "Pollutant" means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, commercial and agricultural waste or any other contaminant.

(x) "Pretreatment" means the reduction, elimination or alteration of the nature of pollutant properties before

or instead of discharging the pollutants to the sanitary sewer system.

(y) "Pretreatment facility" means a facility that reduces, eliminates or alters the nature of pollutant properties before or instead of discharging the pollutants to the sanitary sewer system.

(z) "Pretreatment standard" or "standard" means any local, state or federal regulation containing pollutant discharge limits.

(aa) "Sanitary sewer system" or "system" shall mean all sanitary sewer lines, lift stations, pumping facilities, sanitary sewer collection facilities and their appurtenances which Lowell Township has or shall have possession of and operating responsibility for (whether owned by Lowell Township or not) either now in existence within or outside of Lowell Township or hereafter acquired or constructed within or outside of Lowell Township, and all extensions, enlargements and improvements thereto within or outside of Lowell Township.

(bb) "Severe property damage" means 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.

(cc) "Significant industrial user" means any industrial user (i) subject to a categorical pretreatment standard; and (ii) unless Lowell Township makes a finding that a user has no reasonable potential to adversely affect the sanitary sewer system, any industrial user that (a) discharges an average of 25,000 gallons per day or more of process wastewater to the sanitary sewer system (excluding sanitary, noncontact cooling and boiler blowdown wastewater) or (b) discharges process wastewater that makes up 5% or more of the average dry weather hydraulic or organic capacity of the sanitary sewer system; or (iii) is designated as such by Lowell Township on the basis that the industrial user has a reasonable potential for adversely affecting the operation of the sanitary sewer system or for violating any pretreatment standard or requirement. Within 30 days after Lowell Township determines that a user is a significant industrial user, Lowell Township shall notify the user of its determination and the particular regulations that apply as a result of this determination.

(dd) "Significant noncompliance" means:

(1) chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a 6-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;

(2) technical review criteria ("TRC") violations in which 33% or more of all of the measurements for each pollutant parameter taken during a 6-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

(3) any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that Lowell Township or Vergennes Township determines has caused, alone or in combination with other discharges, interference, or pass-through or endangerment to the health of Lowell Township, Vergennes Township or city employees or the general public;

(4) any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in Lowell Township's, Vergennes Township or the city's exercise of their emergency authority to halt or prevent such a discharge;

(5) failure to meet, within 90 days after the schedule date, a compliance schedule milestone;

(6) failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic compliance reports, and reports on compliance with compliance schedules;

(7) failure to accurately report noncompliance; and

(8) any other violation or group of violations which Lowell Township or Vergennes Township determines (or is advised by the City) will adversely affect the operation or implementation of the pretreatment program.

(ee) "Slug discharge" means any discharge of a non-routine,

episodic nature including, but not limited to, an accidental spill or a non-customary batch discharge.

(ff) "State" means the State of Michigan.

(gg) "Superintendent" means the superintendent of the city's sanitary sewer system, or his designee.

(hh) "Time proportioned composite sample" means a combination of individual samples of equal volume taken at equal intervals of time, without consideration of the volume or rate of flow.

(ii) "Toxic pollutant" means any pollutant or combination of pollutants identified as toxic pursuant to federal or state statutes or regulations.

(jj) "Upset" means an incident for which the user may have a defense to an enforcement action according to section 146(b).

(kk) "User" means any person who discharges or may discharge to the sanitary sewer system.

(ll) "Vergennes Township" means the Township of Vergennes, Kent County, Michigan.

(mm) "Vergennes Township Board" means the Township Board of Vergennes Township.

(nn) "Vergennes Township Supervisor" means the Township Supervisor of Vergennes and/or persons designated by the Vergennes Township Supervisor.

(oo) "Wastewater" means any water that contains pollutants.

(pp) "Waters of the state" means:

(1) both surface and underground waters within the boundaries of this state subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches and public drainage systems within this state, other than those designed and used to collect, convey, or dispose of sanitary sewage; and

(2) the flood plain free-flowing waters determined by the DNR on the basis of 100-year flood frequency.

(qq) "Township" means, unless the context clearly indicates the contrary, the Township of Lowell or the Township of Vergennes.

- (rr) "Township Supervisor" means, unless the context clearly indicates the contrary, the Township Supervisor of Lowell Township or the Township Supervisor of Vergennes Township.

Section 3. General Prohibitions.

- (a) In general

Users may not discharge to the sanitary sewer system except in compliance with this ordinance.

- (b) Interference

Users may not discharge any pollutant to the sanitary sewer system in a quantity or concentration that, alone or in conjunction with other discharges:

- (1) inhibits or disrupts the sanitary sewer system or its sludge processes and
- (2) (A) is a cause of a violation of the city's NPDES permit; or
(B) increases the magnitude or duration of a violation; or
(C) prevents the use or disposal of sewage sludge in compliance with any applicable local, state or federal statutes, ordinances, regulations, permits, or other requirements; or
(D) inhibits the marketing of treated sewage sludge.

- (c) Pass-through

Users may not discharge to the sanitary sewer system any pollutant in a quantity or concentration that, alone or in conjunction with other discharges, is a cause of a discharge from the sanitary sewer system to waters of the state that violates the city's NPDES permit or increases the magnitude or duration of a violation.

Section 4. Prohibited Discharges.

Users may not discharge the following substances to the sanitary sewer system:

- (a) pollutants that create a fire or explosion hazard in the sewage system, including but not limited to pollutants

that result in wastewater with a closed cup flashpoint of less than 140° F or 60° C;

(b) wastewater having a corrosive property capable of causing damage to the structures, equipment or employees of the sanitary sewer system, including but not limited to wastewater with a pH less than the limit set forth in section 5(b);

(c) solid or viscous substances that may obstruct the flow in a sewer or otherwise cause interference with the operation of the sanitary sewer system including, but not limited to, grease, garbage with particles greater than 1/2" in any dimension, or any material which can be disposed of as trash;

(d) wastewater with a temperature that inhibits biological activity in the sanitary sewer system including, but not limited to, any wastewater that causes the effluent to the treatment plant to exceed 40° C (104° F) or any wastewater or vapor having a temperature higher than 60 C (140° F) at the point of entrance to the sanitary sewer system;

(e) petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amount that cause interference or pass-through, including, but not limited to, amounts in excess of the limit set forth in section 5(a);

(f) pollutants that result in the presence of gases within the sanitary sewer system that:

(1) cause an odor nuisance, or

(2) cause workplace conditions in violation of any applicable workplace health or safety standard;

(g) hauled waste, except for hauled waste that:

(1) consists only of domestic wastewater unless specifically authorized by Lowell Township, Vergennes Township and the _____ city pursuant to policies and procedures established by the city, and

(2) is discharged at a point designated by Lowell Township, Vergennes Township and the city;

(h) waste not typically discharged to a sanitary sewer system unless specifically authorized by Lowell Township, Vergennes Township and the city pursuant to policies and procedures established by the city;

- (i) any substance that may cause the sanitary sewer system's treatment residues, sludges or scums to be unsuitable for reclamation and reuse, that causes interference with the reclamation process, or that inhibits the marketing of treated sewage sludge;
- (j) any wastewater that contains radioactive wastes, except when:
 - (1) the user is authorized to use radioactive material by the U.S. Nuclear Regulatory Commission or other governmental agency with authority to regulate the use of radioactive materials, and
 - (2) the wastewater is discharged in compliance with the regulations of the U.S. Nuclear Regulatory Commission and any other applicable local or state regulations;
- (k) any storm water, surface water, groundwater, roof runoff, subsurface drainage, non-contact cooling water, or other unpolluted water, except as approved by Lowell Township, Vergennes Township and the city;
- (l) anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, cleaning solvents, oil-based paint, and paint thinners;
- (m) any non-domestic wastewater before Lowell Township and the city have approved a notice of intent submitted according to section 50;
- (n) any mass, concentration or volume of a substance in excess of the amount allowed in the user's wastewater discharge permit; and
- (o) any substance which may create a public nuisance, cause hazard to life or prevent entry into the sewers for maintenance and repair.

**Section 5. Pretreatment Standards for Specific Pollutants -
Local Limits.**

- (a) Users may not discharge into the sanitary sewer system any wastewater containing concentrations of pollutants greater than the following limits:

Maximum Based on
Four Consecutive
Daily Composite

<u>Pollutants</u>	<u>Limit (1)</u>	<u>mg/l</u>	<u>Samples</u>
Ammonia	50.0	mg/l	
Arsenic	0.5	mg/l	0.25 mg/l
BOD	8500.0	mg/l ²	
Cadmium	0.02	mg/l	0.01 mg/l
Chlorine Demand (per 30 min. contact)	20.0	mg/l	
Chromium (total)	0.6	mg/l	0.3 mg/l
Chromium (hexavalent)	0.3	mg/l	0.15 mg/l
COD	600.0	mg/l	
Copper	0.6	mg/l	0.3 mg/l
Cyanide	1.0	mg/l	0.5 mg/l
Lead	0.3	mg/l	0.15 mg/l
Mercury	0.5	ug/l	
Nickel	3.0	mg/l	1.5 mg/l
Oil, grease & fats	100.0	mg/l	
Phosphorus	50.0	mg/l ²	
Silver	0.2	mg/l	0.2 mg/l
Sulfides	5.0	mg/l	
TSS	4500.0	mg/l ²	
Zinc	3.0	mg/l	1.5 mg/l
Chloroform	1.9	ug/l	
Trichloroethylene	27.0	ug/l	
Tetrachloroethylene	8.0	ug/l	
1,2-Dichloroethane	9.4	ug/l	
Carbon Tetrachloride	4.0	ug/l	
Benzene	6.6	ug/l	
Chlorobenzene	20.0	ug/l	
Dichlorobenzene	400.0	ug/l	
Pentachlorobenzene	74.0	ug/l	
Hexachlorobenzene	7.2	mg/l	
Phenol	0.3	mg/l	
2-Chlorophenol	0.1	ug/l	
4-Chlorophenol	0.1	ug/l	
2,4-Dichlorophenol	0.3	ug/l	
2,4,6-Trichlorophenol	0.1	ug/l	
2,3 Dichlorophenol	0.04	ug/l	
Phthalate Esters	940.0	ug/l	

(1) These limits are an absolute maximum when a pollutant is measured by grab sample. When a pollutant is measured by a flow proportioned or time proportioned composite sample, these standards apply to the composite sample.

(2) Subject to surcharges pursuant to section 100(d).

(b) Users may not discharge wastewater with a PH of 5.5 s.u.

or less, except as provided in subsection (c)(2) below or with a PH of 9.5 s.u. or more.

- (c) (1) If a pollutant is regulated by both a categorical pretreatment standard and this section, then the more stringent standard applies, except as provided in subsection (2) below.
- (2) If a user is subject to a categorical pretreatment standard for pH and if pH is continuously monitored, then the user may discharge wastewater with a pH less than the categorical pretreatment standard but greater than 5.0 s.u. for a period up to 15 consecutive minutes.
- (d) For purposes of determining compliance with the limits set forth in this section, users shall analyze samples according to section 76.

Section 6. Pretreatment Requirements.

- (a) Industrial users shall provide necessary wastewater pretreatment as required to comply with the most stringent of this ordinance, categorical pretreatment standards, state standards and conditions of any wastewater discharge permit issued pursuant to this ordinance, and shall achieve compliance with all categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations, and with any other pretreatment standards by applicable deadlines.
- (b) Any facilities required to pretreat wastewater shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to Lowell Township, Vergennes Township and the city before construction of the facility for review and approval. The review and approval of plans and operating procedures does not relieve an industrial user from complying with the provisions of this ordinance and permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by Lowell Township, Vergennes Township and the city prior to the initiation of the changes.

Section 7. Dilution Prohibition.

Unless authorized to do so by an applicable pretreatment standard or requirement, users may not 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 any applicable pretreatment standard or requirement.

Section 8. Bypass Prohibition.

Once a connection is made to the system:

- (a) Bypass is prohibited, and
- (b) Users shall report bypasses according to section 56.

Section 9. New Source Compliance.

Before beginning to discharge, new sources shall install, have in operating condition and start-up all pollution control equipment needed to meet the applicable pretreatment standards and requirements. Within the shortest feasible time, not to exceed 90 days, new sources shall meet all applicable pretreatment standards and requirements.

Section 10. Categorical Pretreatment Standards.

- (a) Existing sources shall comply with any applicable categorical pretreatment standard within three years from the date that the standard is effective unless a shorter compliance date is specified in the standard.
- (b) Existing sources that become users after promulgation of an applicable categorical pretreatment standard shall comply with the categorical pretreatment standard for existing sources on the commencement of discharge to the sanitary sewer system.
- (c) Limits in a categorical pretreatment standard apply to the effluent from the process regulated by the standard regardless of the site of the effluent discharge.

Section 11. Calculating Equivalent Limits.

- (a) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the city may convert the limits to equivalent limits expressed either as mass of pollutant discharged per day or effluent concentration.
- (b) The city shall calculate equivalent mass-per-day limits by multiplying the limits in the standard by the user's average rate of production. The average rate of production shall be based upon a reasonable measure of the user's actual long-term daily production, such as the average daily production during a representative year. For new sources, projected production may be used.

- (c) The city shall calculate equivalent concentration limits by dividing the mass limits derived according to subsection (b) above by the average daily flow rate of the user's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the user's actual long-term average flow rate, such as the average daily flow rate during a representative year.
- (d) If the city calculates equivalent limits according to this section, the city shall calculate both an equivalent daily maximum limit and an equivalent long-term average limit for the same averaging period as used in the applicable categorical pretreatment standard, such as a monthly, 30-day, or 4-day average or other daily average. The city shall use the same production and flow rates to calculate the equivalent maximum limit and the equivalent monthly, 30-day, or 4-day average limit or other daily average.
- (e) A user subject to limits calculated according to this section shall be subject to those limits until the user has notified the city in writing of a change in production according to section 57.

Section 12. Combined Wastestreams.

- (a) The following definitions apply to the terms used in this section:
 - (1) "Wastestream" means wastewater from a particular process.
 - (2) "Regulated stream" means wastewater from a particular process that is subject to a categorical pretreatment standard.
 - (3) "Combined wastestream" means any combination of regulated streams and wastestreams not subject to a categorical pretreatment standard.
 - (4) "Combined treatment facility" means the equipment and processes used to reduce the mass or concentration of pollutants in a combined wastestream before discharge to the sanitary sewer system.
- (b) When a regulated stream is mixed before treatment with other wastewaters, the superintendent may calculate alternative limits for the combined wastestream using either of the following equations:

$$C_T = \frac{\sum_{i=1}^N C_i F_i}{\sum_{i=1}^N F_i} \quad \frac{F_T - F_D}{F_T}$$

$$M_T = \frac{\sum_{i=1}^N M_i}{\sum_{i=1}^N F_i} \quad \frac{F_T - F_D}{F_T}$$

Where:

C_i = the categorical pretreatment standard concentration limit for a pollutant in regulated stream i

C_T = the alternative concentration limit for the combined wastestream

M_i = the categorical pretreatment standard mass limit for a pollutant in regulated stream i

M_T = the alternative mass limit for a pollutant in the combined wastestream

N = the total number of regulated streams

F_i = the average daily flow over at least 30 days of stream i to the extent that it is regulated for the pollutant

F_T = the average daily flow over at least 30 days through the combined treatment facility

F_D = the average daily flow over at least 30 days from:

- (a) (1) boiler blowdown streams, non-contact cooling water, stormwater streams, and demineralizer backwash streams, except as provided in (2) below;
- (2) the city may exclude a wastestream listed in (1) above from F_D if the user has requested the change in classification and provided engineering data, production data, monitoring results, or other information demonstrating that the wastestream contains a significant amount of a pollutant and the combination of the wastestream before treatment with regulated streams will result in a substantial

reduction of that pollutant;

(b) domestic wastewater when this wastewater is not regulated by a categorical pretreatment standard; or

(c) wastestreams exempted from categorical pretreatment standards for one or more of the following reasons:

(1) the pollutants of concern are not detectable in the effluent from the user;

(2) the pollutants of concern are presently only in trace amounts and are neither causing nor likely to cause toxic effects;

(3) the pollutants of concern are present in quantities too small to be effectively reduced by technologies known to the city; or

(4) the wastestream contains only pollutants that are compatible with the sanitary sewer system.

(c) when deriving alternative limits, the superintendent shall calculate both an alternative maximum limit and an alternative long-term average limit.

(d) the user shall comply with the alternative limits until the city modifies the limits.

(e) a user shall immediately report to the city any significant changes in the values to calculate the alternative limits. The city shall make any necessary changes to the alternative limits within 30 days after the user reports the changes.

(f) (1) when wastewaters are combined before treatment at a centralized waste treater, alternative discharge limits shall be derived according to (b) above, except as provided in (2) below.

(2) the city may impose alternative discharge limits determined by the city's best professional judgment when:

(a) the city determines that the calculation of alternative discharge limits according to this section is not practicable; and

(b) the DNR has approved the alternative limits.

(g) when necessary to ensure that neither dilution nor mixing is used instead of treatment to achieve compliance with

the applicable limits, the city shall require segregated treatment of wastestreams or other measures.

Section 13. Spill Prevention and Slug Control Plans.

- (a) (1) Users shall provide protection from accidental discharge of materials which may interfere with the sanitary sewer system by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the user's expense. Spill prevention plans, including the facilities and the operating procedures, shall be approved by Lowell Township, Vergennes Township and the city before acquisition or construction of the new facilities.
- (2) Industrial users that store hazardous substances shall not contribute to the sanitary sewer system after the effective date of this ordinance unless a spill prevention plan has been approved by Lowell Township, Vergennes Township and the city. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage and transportation of hazardous substances.
- (b) Lowell Township, Vergennes Township and the city shall evaluate each significant industrial user at least once every 2 years, and other industrial users as necessary, to determine whether such user needs a plan to control slug discharges. If Lowell Township, Vergennes Township and the city decide that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - (1) a description of discharge practices, including non-routine batch discharges;
 - (2) a description of stored chemicals;
 - (3) procedures for immediately notifying the city of slug discharges, including any discharge that would violate a prohibition under section 5 with procedures for follow-up written notification within 5 days;
 - (4) if necessary, 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 (including solvents), and/or measures and equipment for emergency response.

Section 14. Notification of Violation or Change of Discharge.

- (a) In the case of any discharge by an individual user in violation of this ordinance or a wastewater discharge permit issued pursuant to this ordinance, or in the case of any other discharge that could cause problems to the sanitary sewer system, the user shall immediately notify the city of the discharge by telephone. The notification shall include:
 - (1) the date, time, location and duration of the discharge;
 - (2) the type of waste, including concentration and volume; and
 - (3) any corrective actions taken.
- (b) Within 5 days following such discharge, the industrial user shall submit a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.
- (c) Any notification required by this section shall not relieve the user of any expense, loss, damage or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed under this ordinance or other applicable state or federal law.
- (d) All users shall promptly notify Vergennes Township in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

Section 15. Employee Notification.

Each user shall permanently post a notice in a prominent place advising all employees to call the city in the event of a dangerous discharge for which notification is required and shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure.

Section 16. Records.

- (a) Industrial users shall retain and make available, upon request of authorized representatives of Lowell Township, Vergennes Township, the city, the DNR or the EPA, all records required to be collected by the user pursuant to this ordinance or any permit issued pursuant to this ordinance.
- (b) Such records shall remain available for a period of at least 3 years after their collection.
- (c) The retention period shall be extended during the course of any unresolved litigation related to compliance with this ordinance or a wastewater discharge permit issued pursuant to this ordinance, the operation of the sanitary sewer system pretreatment program or when requested by the EPA.

Section 17. Confidential Information.

- (a) Information and data about an industrial user obtained from reports, questionnaires, permit applications, permits and monitoring programs, and from inspections, shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of Lowell Township, Vergennes Township and the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the industrial user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as confidential until a determination is made by Lowell Township, Vergennes Township and the city. Effluent data shall be available to the public without restriction.
- (b) When the person furnishing a report satisfies Lowell Township, Vergennes Township and the city that such person has made the demonstration required by (a) above, the portions of a report, questionnaire, permit application, etc., which might disclose trade secrets or secret processes shall not be made available for inspection, except by the DNR or EPA for uses related to this ordinance, the city's NPDES permit or pretreatment program. Confidential portions shall be available for use by the DNR or EPA in judicial review or enforcement proceedings involving the person furnishing the information. Effluent data will not be recognized as confidential information.

Sections 18-24. Reserved.

Section 25. Users that Need Permits.

- (a) The following users may not discharge wastewater to the sanitary sewer system without a wastewater discharge permit:
- (1) any significant industrial user;
 - (2) any user required by state pretreatment requirements to obtain a permit;
 - (3) any user providing pretreatment; and
 - (4) any other user directed by Lowell Township or Vergennes Township to apply for a permit.
- (b) Existing users required to obtain a wastewater discharge permit by subsection (a) above must apply for a permit within 30 days of the effective date of this ordinance, and shall obtain the permit within 180 days of the effective date of this ordinance.
- (c) New sources required to obtain a wastewater discharge permit by subsection (a) above must apply for and receive a permit prior to discharging pollutants into the sanitary sewer system.
- (d) Any user not required to obtain a wastewater discharge permit for existing discharges must apply for and receive a permit prior to changing the user's discharge in such a manner that the resulting discharge would require a permit.

Section 26. Permit Application.

Users required to obtain a wastewater discharge permit shall complete and file with Lowell Township an application on the form prescribed by Lowell Township, and accompanied by a fee established from time to time by resolution of Lowell Township Board. An authorized representative of the user shall sign and swear to the truth of the application. In support of the application, the user shall submit the following information:

- (a) user's name, address, location (if different from the address) and the name of owners and operator of user;
- (b) user's SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(c) wastewater constituents and characteristics including, but not limited to, those mentioned in section 5 of this ordinance as determined by a reliable analytical laboratory.

(d) time and duration of discharge;

(e) average daily and 30-minute peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(f) site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by the size, location and elevation and a current water use schematic;

(g) description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;

(h) the nature and concentration of any pollutants in the discharge which are limited by any Lowell Township, Vergennes Township, city, state or federal pretreatment standards, and a statement signed by an authorized representative of the user and certified by a qualified professional regarding whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards;

(i) the results of sampling and analysis identifying the nature and concentration of any pollutants in the discharge which are limited by any categorical pretreatment standards or which are described in section 5. Both daily maximum and average concentration shall be reported. The sample shall be representative of daily operations. Samples should be taken immediately downstream of pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with wastewater regulated by a categorical pretreatment standard prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) in order to evaluate compliance with pretreatment standards;

(j) if additional pretreatment and/or operation and maintenance will be required to meet pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment or operation and maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable

categorical pretreatment standard. The following conditions shall apply to this schedule:

(1) the schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

(2) no increment referred to in (1) above shall exceed 9 months; and

(3) not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to Lowell Township and Vergennes Township, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return to the schedule established. In no event shall more than 9 months elapse between such progress reports;

(k) each product and/or by-product produced by type, amount, process or processes and rate of production;

(l) type and amount of raw materials processed (average and maximum per day);

(m) number and type of employees, and hours of operation of the facilities and proposed or actual hours of operation of pretreatment system;

(n) list of any environmental control permits held by or for the facility; and

(o) any other information as may be deemed by the city to be necessary to evaluate the permit application.

Lowell Township will evaluate the data furnished by the user and may require additional information. After acceptance and evaluation of the data furnished, Lowell Township may issue a wastewater discharge permit subject to terms and conditions provided herein.

Section 27. Permit Elements.

Wastewater discharge permits shall include:

- (a) the user's name and address;
- (b) a description of the processes and operations to which the permit applies;
- (c) applicable federal, state and city pretreatment standards and requirements;
- (d) sampling, reporting, notification and record keeping requirements, including the pollutants to be monitored, sampling location, sampling frequency, sample collection techniques and analytical requirements;
- (e) duration of the permit;
- (f) requirements to pay applicable fees for the wastewater to be discharged to the sanitary sewer system;
- (g) any limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (h) requirements for the installation and maintenance of sampling and monitoring facilities;
- (i) any applicable compliance schedule, provided that the permit may not contain compliance schedules that extend beyond any applicable federal deadline;
- (j) requirements for submission of technical reports, discharge reports or certification statements;
- (k) requirements for retaining and preserving records relating to wastewater discharges and for allowing Lowell Township, Vergennes Township and/or the city access to these records;
- (l) requirements for notification to Lowell Township, Vergennes Township and/or the city of any new wastewater constituents or any change in long-term production rates or wastewater flow rates of 20% or more;
- (m) requirements for notification of spills, potential problems to the sanitary sewer system, including slug loadings, upsets or violations;
- (n) requirements for installation, operation and maintenance of pollution control equipment;

- (o) requirements to develop and implement spill and slug control plans;
- (p) a statement regarding the applicable civil and criminal penalties for violating pretreatment standards and requirements;
- (q) a statement indicating that the permit is not transferable to any other person unless the new user applies to Lowell Township for a transfer of the permit before the user takes possession or control of the processes or operations to which the permit applies;
- (r) a statement that the user consents to inspection and sampling by Lowell Township, Vergennes Township or the city; and
- (s) requirements regarding the necessity of having a DNR certified wastewater pretreatment operator be responsible for operating the user's pretreatment facilities;
- (t) any other appropriate requirements.

Section 28. Basis for Effluent Limitations.

Effluent limitations shall be based upon the more stringent of the following:

- (1) categorical pretreatment standards;
- (2) state pretreatment requirements; or
- (3) local limitations.

Section 29. Permit Duration.

Permits shall be issued for a specified time period, not to exceed 5 years.

Section 30. Permit Modifications.

- (a) Within 9 months of the promulgation of a categorical pretreatment standard or pretreatment requirement or such shorter time as specified within the standard or requirement, the wastewater discharge permit of users subject to such standards or requirements shall be revised to require compliance with such standard within the time prescribed by such standard. The user shall apply for a modified wastewater discharge permit within 180 days after the promulgation of a new pretreatment standard or requirement.

(b) A user must reapply for a wastewater discharge permit:

(i) whenever the mass loading of pollutants contained in the permitted discharge exceeds the average daily quantity applied for by greater than 10% and/or (ii) prior to any new introduction of pollutants or any substantial change in the volume or character of pollutants introduced into the sanitary sewer system.

(c) A user may reapply for a wastewater discharge permit whenever the user believes that some of the permit requirements no longer apply.

Section 31. Permit Reissuance.

A permittee shall submit to Lowell Township an application for reissuance of a wastewater discharge permit at least 60 days before the expiration date of the current permit. The application shall consist of a written request for reissuance of the permit, a statement indicating whether the user is in compliance with all of the conditions of the existing permit and this ordinance, and a description of any circumstances that have changed since the current permit was issued or modified. An authorized representative of the user shall sign and swear to the truth of the application.

Section 32. Permit Transfer.

Wastewater discharge permits are issued to a specific user for processes or operations at a specific location. Wastewater discharge permits are not transferable to another person, process, operation or location without prior approval from Lowell Township. Before taking possession or control of the processes or operations to which a permit applies, the person taking possession or control shall apply to Lowell Township for transfer of the wastewater discharge permit.

Sections 33-49. Reserved.

Section 50. Notice of Intent.

(a) At least 60 days before commencing or changing a discharge, the following persons shall submit a notice of intent with Lowell Township:

- (1) a person proposing to discharge any non-domestic wastewater not previously reported to Lowell Township;
- (2) a person taking possession or control of an existing facility that discharges or may discharge process wastewater into the sanitary sewer system;

- (3) a person constructing a new facility that will discharge process wastewater into the sanitary sewer system;
 - (4) a person changing the physical size or operations at a facility to the extent that wastewater volume or content is substantially changed, including, but not limited to, to any change in wastewater volume of 20% or more; and
 - (5) a person commencing or modifying a discharge of hazardous wastes that requires reporting under section 59.
- (b) The notice of intent shall:
- (1) be submitted in writing on a form provided by Lowell Township;
 - (2) include sufficient information to allow Lowell Township to evaluate the effect of the proposed discharge on the sanitary sewer system and operations and to assure compliance with this ordinance;
 - (3) contain the certification set forth in section 63 and be signed by an authorized representative of the user; and
 - (4) be accompanied by a payment of any fees established by Lowell Township Board.

Section 51. Baseline Monitoring Report.

- (a) If a user discharges wastewater from a process that is regulated by a categorical pretreatment standard, then the user shall submit to Lowell Township and Vergennes Township a baseline monitoring report within 180 days after the promulgation of the categorical pretreatment standard. This report shall include all of the information required by subsection (c) below.
- (b) New sources subject to categorical pretreatment standards and existing sources that become users after the promulgation of an applicable pretreatment standard shall submit to Lowell Township and Vergennes Township a baseline monitoring report at least 90 days before the commencement of discharge. This report shall contain the information required by subsection (c) below. New sources shall also discuss the method of pretreatment that the source intends to use. New sources shall estimate the information required in subsection (c) (4)

and (6).

(c) Baseline monitoring reports shall include the following information:

(1) the name, address, and location of the user and the names of the owners and operators;

(2) a list of environmental control permits held by or for the facility;

(3) a description of production processes and products, the rate of production, the SIC and a schematic diagram of the facility that indicates where processes regulated by a categorical pretreatment standard discharge to the sanitary sewer system;

(4) the average and maximum flows to the sanitary sewer system from each process regulated by a categorical pretreatment standard and from any other stream in a combined wastestream;

(5) the applicable categorical pretreatment standards;

(6) (A) except as provided in subsection (B) below, the results of sampling and analysis that identify the nature and concentration or mass of regulated pollutants in the discharge from each regulated process. Both daily maximum and average values shall be reported. The sample shall be representative of daily operations. Sampling and analysis shall be done according to subarticle IV;

(B) representative historical data may be used if approved by Lowell Township;

(7) the time, date and place of sampling and the method of analysis;

(8) a certification that the data is representative of normal work cycles and discharges to the sanitary sewer system;

(9) a discussion of whether the applicable pretreatment standards and requirements are being met on a consistent basis. If the applicable pretreatment standards and requirements are not being met, the report shall include a discussion of the changes to operations, maintenance procedures or equipment necessary to achieve compliance;

- (10) if changes to operations, maintenance procedures or equipment are needed to achieve compliance, the report shall include the shortest possible implementation schedule. The completion date may not be after the compliance date for any applicable categorical pretreatment standard. The schedule shall specify the dates of commencement and completion of major events. The time between any two major events shall be less than 9 months; and
 - (11) any other information required by Lowell Township.
- (d) Baseline monitoring reports shall contain the certification set forth in section 63 and be signed by an authorized representative of the user.

Section 52. Progress Reports.

- (a) Within 14 days after any of the dates in a schedule required by section 51(c)(10), the user shall submit to Lowell Township a written progress report. At a minimum, this report shall state whether the required event was completed by the specified date. If the required event is not completed, the report shall give the reason for the delay, the efforts made to return to the schedule and the date when the required event will be completed.
- (b) Progress reports shall be signed by an authorized representative of the user.

Section 53. 90-Day Reports.

- (a) If a user is subject to a categorical pretreatment standard, the user shall submit to Lowell Township a 90-day report that includes the information required by section 51(c)(4) through (10). If a user is subject to equivalent mass or concentration limits calculated according to 40 CFR 403.6(c), then the user shall include a reasonable measure of the industrial user's long-term production rate. If a user's categorical pretreatment standards are expressed in production-based standards or another measure of operation, this report shall include the user's actual production during the sampling period.
- (b) Users shall submit the 90-day report within 90 days after the compliance date for the applicable categorical pretreatment standard. New sources shall submit the report within 90 days after the commencement of discharge to the sanitary sewer system.
- (c) 90-day reports shall contain the certification set forth in section 63 and be signed by an authorized

representative of the user.

Section 54. Periodic Compliance Reports.

- (a) Any user with a wastewater discharge permit shall submit to Lowell Township periodic compliance reports according to the schedule in the user's wastewater discharge permit, but in no event no less often than semi-annually.
- (b) Periodic compliance reports shall include all of the information required by the user's wastewater discharge permit. At a minimum, these reports shall include:
 - (1) the name, mailing address and street address of the user;
 - (2) the wastewater discharge permit number; and
 - (3) sample results for the regulated pollutants, sample date, sample location and sample type.
- (c) If a user monitors any pollutant more frequently than required by Lowell Township, using the sampling and analysis procedures required by this ordinance, then the user shall include the results of that monitoring in the periodic compliance report.
- (d) For any wastewaters subject to categorical pretreatment standards that have been shipped off-site for disposal, periodic compliance reports shall include the category, manufacturing process, volume and destination.
- (e) Users shall report sample results before the last day of the month after the month in which the samples were collected.
- (f) Periodic compliance reports shall contain the certification set forth in section 63 and be signed by an authorized representative of the user.

Section 55. Report of Violation and Resampling.

If sampling performed by a user indicates a violation, the user shall:

- (a) notify Lowell Township, Vergennes Township and the city within 24 hours of becoming aware of the violation;
- (b) provide a written report with sample results to Lowell Township, Vergennes Township and the city within 5 days after becoming aware of the violation; and

- (c) repeat the sampling and analysis and submit the results of the repeat analysis to Lowell Township, Vergennes Township and the city within 30 days after becoming aware of the violation.

Section 56. Bypass Reports.

- (a) If a user knows in advance of the need for a bypass, then the user shall notify Lowell Township, Vergennes Township and the city at least 10 days before the bypass, if possible, or otherwise immediately.
- (b) If a user has a bypass that causes a violation of a pretreatment standard or requirement and the user did not anticipate the bypass, then the user shall:
 - (1) orally notify Lowell Township, Vergennes Township and the city of the bypass within 24 hours of becoming aware of the bypass; and
 - (2) provide a written notification within 5 days after becoming aware of the bypass that describes:
 - (A) the bypass and its cause;
 - (B) the duration of the bypass with exact dates and times or the anticipated time it is expected to continue if the user has not yet corrected the bypass; and
 - (C) the steps taken or planned to prevent reoccurrence of the bypass.
- (c) The reports required by this section shall contain the certification set forth in section 63 and be signed by an authorized representative of the user.

Section 57. Reports of Changed Production Levels.

- (a) If a user's wastewater discharge permit incorporates equivalent mass or concentration limits and if the user's long-term production rate will change by 20% or more, then the user shall notify Lowell Township within 2 days after determining that the production level will change.
- (b) This notification shall contain the certification set forth in section 63 and be signed by an authorized representative of the user.

Section 58. Reporting of Upsets, Spills, Other Slugs and Emergencies.

- (a) Users shall immediately notify Lowell Township, Vergennes Township and the city of an upset, spill or other slug.
- (b) The notice required shall include:
 - (1) the location, date and time of the discharge;
 - (2) the character and volume of the discharged material; and
 - (3) containment or other corrective action taken by the user.
- (c) Within 5 days after the upset, spill or other slug, the user shall submit to Lowell Township, Vergennes Township and the city a written report describing the cause of the discharge and the measures to be taken by the user to prevent similar occurrences in the future.
- (d) The report required by section (c) shall contain the certification set forth in section 63 and be signed by an authorized representative of the user.
- (e) Users shall immediately notify Lowell Township, Vergennes Township, and the city of any emergency that may affect the sanitary sewer system.

Section 59. Hazardous Waste Report.

- (a) A user shall submit a hazardous waste report to Lowell Township, Vergennes Township and the city, the DNR and the EPA if the user discharges to the sanitary sewer system:
 - (1) any amount of substances that if otherwise disposed would be acutely hazardous substances according to 40 CFR 261.30(d) or 261.33(e); or
 - (2) substances that:
 - (A) if otherwise disposed would be listed as characteristic hazardous waste according to 40 CFR 261; and
 - (B) are discharged in quantities of 15 kilograms or more per month.
- (b) (1) Hazardous waste reports shall include:

- (A) the name of the hazardous waste;
- (B) the hazardous waste number;
- (C) whether the discharge is batch, continuous or another type; and
- (D) a certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the greatest degree economically practicable.

(2) If the user discharges to the sanitary sewer system more than 100 kilograms per month of substances that if otherwise disposed would be a hazardous waste, then the hazardous waste report shall include the following information to the extent that it is known to the user:

- (A) the hazardous constituents contained in the waste;
- (B) the mass and concentration of the hazardous constituents in the wastestream discharged during each month; and
- (C) the mass of hazardous constituents the user expects to discharge during the next 12 months.

(c) Users shall submit the hazardous waste report:

- (1) before July 1, 1992, if the user is currently subject to this section;
- (2) within 180 days after the commencement of discharge of any listed or characteristic hazardous waste in quantities that make the user subject to this section; and
- (3) within 90 days after new federal or state regulations define as a hazardous waste substances that the user discharges in quantities that make the user subject to this section.

(d) Only one report is required for each hazardous waste discharged to the sanitary sewer system. Users shall report changes in the quantity or frequency of the discharge according to section 50.

(e) If other reports under this subarticle have included the information that would be in the hazardous waste report,

then a hazardous waste report is not required.

- (f) Hazardous waste reports shall contain the certification set forth in section 63 and be signed by an authorized representative of the user.

Section 60. Reporting Requirements for Users Other Than Those Users Subject to Categorical Pretreatment Standards.

- (a) Users not subject to categorical pretreatment standards shall report to Lowell Township according to the requirements of Lowell Township.
- (b) Significant industrial users not subject to categorical pretreatment standards shall submit to Lowell Township reports according to section 54.
- (c) The reports required by this section shall be based upon sampling and analysis performed in the period covered by the report and performed according to the techniques set forth in subarticle IV or other techniques approved by Lowell Township.
- (d) Any reports required by this section shall contain the certification set forth in section 63 and be signed by an authorized representative of the user.

Section 61. Review of Proposed Treatment Facilities.

If a user is planning to install or modify treatment facilities or operations to comply with a categorical pretreatment standard, a pretreatment standard set forth in section 5, a wastewater discharge permit condition, or an order of Lowell Township, then the user shall provide Lowell Township with plans, specifications and operating procedures for the proposed facilities. Lowell township may approve, conditionally approve, or disapprove the plans, specifications and operating procedures. A user may not begin discharging from the treatment facilities until the user has satisfied the requirements of Lowell Township.

Section 62. Other Reports.

In addition to the reports required by sections 50 through 61, Lowell township may require other reports whenever Lowell Township finds them necessary to fulfill Lowell Township responsibilities under this ordinance or any other township, city, state or federal law.

Section 63. Certification Requirement.

The reports required by sections 50 through 60 and section 62 shall contain the following certification:

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.

Section 64. Signatory Requirements.

- (a) The reports required by section 50 through 60 shall be signed by an authorized representative of the user.

Section 65. Reporting Address.

Users shall submit reports required by this ordinance to the city and townships at the following addresses:

City of Lowell
Wastewater Treatment Plant
300 Bowes Road
Lowell, Michigan 49331
Attention: Superintendent

Lowell Charter Township
2910 Alden Nash SE
Lowell, MI 49331
Attention: Supervisor

Vergennes Township
10381 Bailey Drive
Lowell, MI 49331
Attention: Supervisor

Section 66. Record Keeping Requirements.

- (a) For each sample taken to satisfy the requirements of this ordinance, users shall record the following information:
 - (1) the exact place, date and time of the sampling;
 - (2) the type of sample;

- (3) the name of the person taking the sample, the person doing the analysis and the laboratory where the analysis was done;
 - (4) the dates the analyses were performed;
 - (5) the analytical techniques and methods used; and
 - (6) the results of all required analyses.
- (b) Users shall retain and preserve for no less than 3 years all records relating to monitoring, sampling and chemical analyses made by or on behalf of the user. If a record pertains to matters that are the subject of an order, litigation or other enforcement action, then the user shall retain and preserve the record until all enforcement activities have concluded and all periods of limitations for appeals have expired. Users shall make these records available upon request to Lowell Township, Vergennes Township or the city for inspection and copying.

Section 67. Public Information.

All written information submitted to the city shall be available without restriction to any person upon request, unless:

- (a) the user provides, at the time the user submits the information, a written notice to Lowell Township, Vergennes Township and the city that the user claims that all or part of the information is exempt from disclosure according to section 15 hereof; and
- (b) the user demonstrates to the townships' and the city's satisfaction that the information is a trade secret according to section 15 hereof.

Sections 68-74. Reserved.

Section 75. Sampling.

- (a) Reports required by this ordinance shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report. This data shall be representative of conditions occurring during the reporting period. The monitoring frequency shall be sufficient to show compliance with all applicable standards and requirements. Users shall at a minimum take one composite representative sample to compile the data necessary to comply with applicable standards and requirements.

- (b) (1) Users shall collect grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. For all other pollutants, users shall collect flow proportioned composite samples collected over 24 hours or the duration of the discharge if the duration of the discharge is less than 24 hours. However, Lowell Township may waive flow proportional composite sampling requirements if the user demonstrates to Lowell Township's satisfaction that flow proportioned sampling is not feasible. In such cases, users may use time proportioned composite samples, grab samples, or another type of sample that will provide a representative sample and has been approved by Lowell Township.
- (2) For baseline monitoring reports, users shall take a minimum of four grab samples for the pollutants for which grab samples are taken.
- (3) Lowell Township may require continuous ph monitoring.

Section 76. Sample Analysis.

- (a) Samples collected for the purpose of satisfying the requirements of this ordinance shall be analyzed:
 - (1) according to 40 CFR 136; and
 - (2) by a recognized professional.
- (b) For discharges to the sanitary sewer system from remedial actions related to leaking underground storage tanks or other sources of contaminated groundwater, Lowell Township may require the following analyses or any other appropriate analyses:
 - (1) Samples shall be analyzed for benzene, ethylbenzene, toluene, and xylene using EPA method 624.
 - (2) For total petroleum hydrocarbons, samples shall be analyzed according to the California LUFT Field Manual, May, 1988.

Section 77. Monitoring Locations and Facilities.

- (a) When requested by Lowell Township, a user shall construct and maintain monitoring facilities to allow Lowell Township to inspect, sample and measure flow of discharges to the sanitary sewer system.

- (b) Users shall allow Lowell Township to locate, construct and maintain monitoring facilities according to the requirements of Lowell Township.
- (c) All buildings of significant industrial users constructed after July 1, 1992, shall include monitoring facilities at every outfall that may discharge non-domestic wastewater.
- (d) Users shall submit to Lowell Township plans and specifications for construction or modification of monitoring facilities at least 30 days before the proposed commencement of construction or modification. If a user constructs or modifies monitoring facilities before Lowell Township approval or without an inspection during construction and Lowell Township determines that the monitoring facilities are unacceptable, then the user shall at its costs reconstruct or modify the monitoring facilities according to the requirements of Lowell Township.
- (e) The user shall maintain monitoring facilities in a safe, operating condition at all times.
- (f) The user shall allow Lowell Township, Vergennes Township, or the city access to all monitoring facilities according to the requirements of section 128.

Section 78. Monitoring Location for Combined Wastestreams.

- (a) When a wastewater regulated by a categorical pretreatment standard is combined before treatment with other wastewaters, a user may monitor either the segregated wastestreams or the combined wastestream for purposes of determining compliance with the applicable pretreatment standard.
- (b) If the user chooses to monitor the segregated wastestream, the user shall apply the applicable categorical pretreatment standard.
- (c) If the user monitors the combined wastestream, the user shall apply an alternative limit calculated according to the combined wastestream formula of 40 CFR 403.6(e).
- (d) A user may change monitoring locations only after receiving approval from Lowell Township. Lowell Township shall ensure that any change in a user's monitoring location will not allow the user to substitute dilution for adequate treatment.

Sections 79-99. Reserved.

Section 100. Fees and Charges.

Lowell Township may (shall in the case of surcharge fees) from time to time by resolution of the township board adopt fees and charges to include:

- (a) charges for reimbursement of costs of setting up and operating the sanitary sewer system pretreatment program;
- (b) fees for monitoring, inspection and surveillance procedures including the cost of reviewing monitoring reports submitted by the industrial user;
- (c) charges for reviewing accidental discharge procedures and construction;
- (d) surcharge fees to cover the cost of removal of prohibited discharge, including surcharges for BOD, TSS and phosphorus discharges over the following permissible limits:

<u>Pollutant</u>	<u>Surcharge Above</u>
BOD	300.0 mg/l
Phosphorus	10.0 mg/l
TSS	300.0 mg/l;

- (e) fees for permit applications, including the cost of processing such applications;
- (f) fees for filing appeals; and
- (g) other fees and charges as Lowell Township may deem necessary to carry out the requirements contain in this ordinance.

These fees and charges relate solely to the matters covered by this ordinance and are separate from all other fees chargeable by Lowell Township.

Sections 101-124. Reserved

Section 125. City Responsible for Enforcement.

- (a) Lowell Township, Vergennes Township or the city shall undertake the enforcement actions necessary to promote the purposes set forth in section 1 hereof. Lowell Township is hereby authorized to enforce all applicable pretreatment standards and requirements. However, users may also be subject to citizens suits under 33 USC 1365

or enforcement actions by the EPA.

- (b) Lowell Township, Vergennes Township or the city may take any enforcement action at any time as appropriate to the circumstances of the case. Lowell Township, Vergennes Township and the city are not required to take enforcement actions in the order in which they are presented in this ordinance.

Section 126. Enforcement Response Plan.

- (a) Lowell Township is hereby authorized to develop and implement an enforcement response plan. This plan shall contain procedures for investigating and eliminating noncompliance with pretreatment standards or requirements. At a minimum, the plan shall discuss:
 - (1) how Lowell Township will investigate instances of noncompliance;
 - (2) the various types of enforcement responses used by Lowell Township, the violations for which the responses will be used, and the timing of these responses; and
 - (3) the persons responsible for each response.
- (b) The enforcement response plan provides only explanatory material and is merely informational in nature. The enforcement response plan does not create legal rights or obligations and does not limit the enforcement discretion of Lowell Township, Vergennes Township or the city.

Section 127. Surveillance of Users.

- (a) Lowell Township is hereby authorized to sample and analyze effluent from users and conduct other surveillance activities as often as necessary to identify occasional and continuing noncompliance with any applicable pretreatment standard or requirement.
- (b) Lowell Township is hereby authorized to inspect the premises of and sample the effluent from each significant industrial user at least once per year.
- (c) Users shall pay fees to Lowell Township for the costs of sample collection, preparation and analysis as established from time to time by resolution of the Lowell Township Board.

Section 128. Right of Entry.

- (a) After township, city, DNR or EPA representatives or agents have exhibited proper credentials, a user shall allow them to enter the premises of the user at any reasonable time for the purposes of inspection, sampling or examining records.
- (b) For purposes of inspection and sampling, "reasonable time" includes any time the user is operating any process that results in wastewater or any time the user is discharging to the sanitary sewer system.
- (c) Users shall allow Lowell Township, Vergennes Township or the city to use on the user's devices for sampling, inspecting, measuring flows or otherwise monitoring compliance.

Section 129. Inspection and Sampling Warrants.

If Lowell Township, Vergennes Township or the city has a reasonable belief that a user has discharged or may discharge wastewater to the sanitary sewer system in violation of this ordinance, the user's wastewater discharge permit or any other applicable provision of local, state or federal law, then Lowell Township, Vergennes Township or the city may apply to an appropriate circuit court for a search warrant or other appropriate judicial order or writ.

Section 130. Determining Compliance.

- (a) Whenever a grab sample is used to determine compliance with an applicable pretreatment standard or requirement, a user is in violation on the sampling day if any one grab sample exceeds the applicable pretreatment standard, regardless of the number of grab samples taken on the sampling day.
- (b) For determining compliance with any applicable pretreatment standard or requirement, Lowell Township shall use the sample result that shows a pollutant present in the largest amount when:
 - (1) a sample collected by Lowell Township is split with a user or when Lowell Township and a user simultaneously collect samples;
 - (2) the samples are analyzed by Lowell Township and the user according to 40 CFR, Part 136; and
 - (3) the analyses by Lowell Township and the user produce different results.

Section 131. Notice of Noncompliance.

- (a) If Lowell Township or Vergennes Township has determined that a user has violated or is violating this ordinance, the user's wastewater discharge permit, or any other applicable local, state or federal law, then Lowell Township or Vergennes Township may issue to the user a notice of noncompliance.
- (b) A notice of noncompliance shall identify the violation and the consequences of further violation.
- (c) As appropriate to the circumstances, the notice of non-compliance may:
 - (1) require description of the nature and cause of the violation;
 - (2) require a description of the remedy;
 - (3) require the submission of certain information before a certain date;
 - (4) provide notice that Lowell Township or Vergennes Township will be increasing its surveillance of the user; or
 - (5) contain other provisions that promote a return to compliance.

Section 132. Notice of Violation.

- (a) If Lowell Township or Vergennes Township has determined that a user has violated or is violating this ordinance, the user's wastewater discharge permit, or any other applicable local, state or federal law or has failed to respond to a notice of noncompliance, then Lowell Township or Vergennes Township may issue to the user a notice of violation.
- (b) Any notice of violation issued by Lowell Township or Vergennes Township shall:
 - (1) be written;
 - (2) be either hand delivered or delivered by certified mail, return receipt requested;
 - (3) state the nature of the violation;
 - (4) if Lowell Township or Vergennes Township has determined that the user meets the criteria set

forth in section 134, indicate that it intends to publish the user's name according to section 134; and

- (5) describe the administrative procedures that are available to review its determination.
- (c) A notice of violation may require the user to:
- (1) attend a meeting with the township;
 - (2) submit a remedial action plan and compliance schedule; and
 - (3) take other actions to identify the nature of the violation, the cause of the violation or a remedy for the violation.

Section 133. Remedial Action Plans and Compliance Schedules.

- (a) A user may submit to Lowell Township and Vergennes Township a remedial action plan in response to any noncompliance. The remedial action plan shall contain a compliance schedule.
- (b) Lowell Township and Vergennes Township shall review the remedial action plan and compliance schedule to determine whether they are sufficient to achieve consistent compliance within a reasonable time.
- (c) Lowell Township and Vergennes Township may approve, conditionally approve, or disapprove the remedial action plan and compliance schedule.
- (d) Lowell Township and Vergennes Township may defer further progressive enforcement action if the user implements the remedial action plan according to the approved compliance schedule. If the user fails to implement an approved remedial plan according to the compliance schedule or if the implementation of an approved remedial action plan fails to achieve compliance, then Lowell Township or Vergennes Township shall take further appropriate enforcement action.

Section 134. Publication of the Names of the Users in Significant Noncompliance.

- (a) As often as Lowell Township finds necessary, but at least once per year, Lowell Township is hereby authorized to publish the names of the users in Vergennes Township that were in significant noncompliance.

- (b) The Vergennes Township shall publish the list required by subsection (a) above in the newspaper with the largest circulation in Vergennes Township.

Section 135. Orders.

(a) General orders

- (1) If Lowell Township or Vergennes Township has determined that a user has violated or is violating this ordinance, the user's wastewater discharge permit, or any other applicable local, state or federal law, then Lowell Township or Vergennes Township may order a user to take certain actions before a certain time.
- (2) An order shall:
- (A) be written;
 - (B) state the reasons for the order;
 - (C) describe the administrative procedures that are available to review the city's determination; and
 - (D) be hand delivered or delivered by certified mail, return receipt requested.

(b) Show cause orders

- (1) If Lowell Township or Vergennes Township determines that a user has violated or is violating this ordinance, the user's wastewater discharge permit, or any other applicable local, state or federal law, then Lowell Township or Vergennes Township may order a user to show cause why a proposed enforcement action should not be taken.
- (2) An order shall:
- (A) be written;
 - (B) state the reason for the order and the proposed enforcement action;
 - (C) state the time, date and place of a meeting with the township;
 - (D) describe the administrative procedures that are available to review the township's determination; and

- (E) be hand delivered or delivered by certified mail, return receipt requested.

Section 136. Permit and License Suspension and Revocation.

- (a) Lowell Township or Vergennes Township may suspend or revoke a user's wastewater discharge permit for any of the following reasons:
 - (1) the failure to accurately report wastewater constituents or other characteristics of the discharge;
 - (2) the failure to report significant changes in wastewater constituents or other characteristics;
 - (3) the failure to submit timely reports;
 - (4) the failure to allow Lowell Township, Vergennes Township or the city or their representatives reasonable access to the user's premises for inspection or monitoring;
 - (5) the discharging of any substance prohibited by this ordinance;
 - (6) the discharging of a substance in excess of the amount allowed in the wastewater discharge permit;
 - (7) the failure to pay the costs imposed upon the user;
 - (8) the refusal to grant right of entry pursuant to section 128;
 - (9) the failure to reapply for a wastewater discharge permit or request a required permit modification; or
 - (10) any other violation of the wastewater discharge permit, this ordinance, an order of Lowell Township, Vergennes Township or the city, a judicial order, or any other applicable local, state or federal law.
- (b) After a user has received notice that Lowell Township or Vergennes Township has suspended or revoked the user's wastewater discharge permit, the user shall immediately cease all discharges to the sanitary sewer system from the facility to which the permit applied.

Section 137. Bulkheads.

- (a) Lowell Township or Vergennes Township may issue a written order for the insertion of a bulkhead in a user's sewer connection if Lowell Township or Vergennes Township has determined that:
 - (1) the user has failed to adequately respond to a notice of noncompliance, a notice of violation of an order for discharging prohibited substances or pollutants, or
 - (2) the user has discharged or will imminently discharge a prohibited substance or pollutant in an amount likely to harm the environment, the sanitary sewer system or the public.
- (b) Before Lowell Township or Vergennes Township may insert a bulkhead, the township shall deliver to the user a written notice describing the reason for the bulkhead order. The township shall make a reasonable attempt to deliver the notice to the person who appears to be in control of the user's facility.
- (c) After delivery of the notice, the township may immediately insert the bulkhead.
- (d) (1) Except as provided in subsection (2) below, no person may remove or tamper with a bulkhead.
- (2) A user may remove a bulkhead after the user has received written permission from the township.

Section 138. Administrative Review of Decisions.

(a) Introduction

The procedures set forth in this section shall be used to review decisions under subarticle II and sections 132, 133, 134 and 135.

(b) Initial review

- (1) Any person aggrieved by a decision under subsection II or sections 132, 133, 134 and 135 may request that the township review its decision.
- (2) (A) The township shall review a decision according to this subsection if the superintendent receives a request for review within 30 days after the person requesting review received notice of the decision, except as provided in subsection (B) below.

(B) If a user has received a notice of violation indicating that the township will publish the user's name according to section 134, then the township shall review a decision according to this subsection if the superintendent receives a request for review either 3 or more days before a compliance meeting required by the notice of violation or before another date specified in the notice of violation.

(3) A request for review shall be in writing and shall contain facts and arguments supporting modification or reversal of the decision.

(4) Within 15 days after receiving the request for review, the superintendent shall review the decision or provide to the person requesting review notification of when the review will be complete. The superintendent may affirm, reverse or modify the initial decision. The superintendent shall provide to the person requesting review a written decision and the reasons for the decision. If the decision is adverse to the person requesting review, the decision shall indicate the procedures necessary for an administrative appeal and the date by which the user must initiate the administrative appeal.

(c) Administrative appeal

(1) If a decision under subsection (b)(4) is adverse to the person requesting review, that person may appeal that decision by providing a notice of appeal to the superintendent within 30 days after the date of the decision.

(2) The township shall provide for a hearing on an appeal requested under subsection (b)(4) within 60 days after the township has received a notice of appeal. The township shall mail or otherwise deliver notice to the appellant of the hearing at least 10 days before the hearing.

(3) The township supervisor shall conduct the hearing of an appeal.

(4) At a hearing under this section, attorneys may represent the parties and they may file briefs, present evidence, and call, examine and cross-examine witnesses.

(5) Witnesses shall be sworn by the township supervisor

before providing testimony.

- (6) The township supervisor shall ensure that the record of the proceedings is complete. As directed by the township supervisor, the township shall provide a court reporter or other recording device.
- (7) The parties shall jointly submit an exhibit and witness list to the township supervisor at least 5 days before the hearing or as directed by the township supervisor.
- (8) The township supervisor shall admit all testimony having reasonable probative value and shall exclude irrelevant or unduly repetitious testimony. The township supervisor is not bound by common law or statutory rules of evidence.
- (9) The user shall have the burden of proof and persuasion for showing that the township's decision was erroneous.
- (10) Within 20 days after the completion of the hearing, the township supervisor shall mail or otherwise deliver to all of the parties a written decision and the reasons for it.

(d) Exhaustion

A decision under ordinance II or sections 132, 133, 134 and 135 is not final until a person has exhausted all of the procedures of this section. A decision under subsection (c)(10) above shall be a final determination for purposes of judicial review by any party.

Section 139. Effectiveness of Decision During Review.

During the pendency in any forum of any challenge to a decision, a user affected by the decision shall comply with the decision.

Section 140. Judicial Proceedings.

- (a) If the township has determined that a user has failed to comply with this ordinance, the user's wastewater permit, any other applicable local, state or federal law, or a notice of violation or order issued by the township, then the township, through the township attorney, may commence judicial proceedings for appropriate relief in the appropriate court.
- (b) The township may bring an action for a preliminary or

permanent injunction or both, as may be appropriate, against any person who violates the provisions of this ordinance, a wastewater discharge permit, order or any other applicable local, state or federal law.

- (c) The township may also seek injunctive relief any time an emergency arises due to imminent danger to the public health or welfare or imminent danger to the environment to abate any pollution or other activity that is causing the danger.

Section 141. Remedies, Penalties and Cost Recovery.

- (a) The township may obtain any remedy allowed by law for any violation of any pretreatment standard or requirement.
- (b) The township may seek the imposition of civil penalties up to \$500 or other amount allowed by law for each violation of any pretreatment standard or requirement. The following rules apply to counting violations:
 - (1) a separate violation occurs for each pollutant that exceeds an applicable pretreatment standard;
 - (2) each day on which a violation occurs is a separate violation and a violation will be deemed to have continued to occur each day beginning with the first day the violation occurred to the day the user is able to demonstrate through sampling results that the violation is not longer occurring;
 - (3) if a user is in noncompliance with any pretreatment standard that is a monthly average, 30-day average, 4-day average, or other daily average, then the user has one violation on each day of the averaging period;
 - (4) if for any period a user has violated both a maximum and an average pretreatment standard for a particular pollutant, then the total number of violations is the sum of the days on which the maximum standard was violated and the days in the averaging period; and
 - (5) one violation occurs on:
 - (A) each day that a report is late; and
 - (B) each day after an action required to be completed is not completed.
- (c) Making a false statement or certification in any applica-

tion, record, report, plan, or other document, or making a monitoring device or method inaccurate may result in punishment under the criminal laws of the state or the United States, in addition to civil relief.

- (d) If a user's discharge results in a deposit, an obstruction, damage, or an impairment in the sanitary sewer system, then the user shall be liable to the city for the costs of cleaning, repairing, or replacing the affected components.
- (e) In any enforcement action, the township may recover from the user subject to the enforcement action the township's costs for sampling, analysis, other surveillance measures and time devoted to the action by the superintendent, township supervisor, township attorney or other personnel.
- (f) A user shall be liable to the township for a penalty or other liability imposed upon the township if:
 - (1) the user has violated any pretreatment standard or requirement;
 - (2) the user's violation has caused the township to violate any requirement to which it is subject or increased the magnitude or duration of a violation; and
 - (3) an enforcement action against the township by the DNR, the EPA or any other person resulted in the penalty or other liability being imposed upon the township.

Section 142. Administrative Fines.

- (a) Notwithstanding any other provision of this ordinance, any user who has violated any provision of this ordinance, the user's wastewater discharge permit or an order issued hereunder, shall be fined in an amount not to exceed \$500 per violation.
- (b) The rules set forth in subsection 141(b) shall apply in the counting of violations under this section.
- (c) All administrative fines may be added to the user's next sewer service charges bill and shall be treated for purpose of payment and the imposition of late payment penalties, interest and charges the same as sewer service charges.
- (d) Delinquent administrative fines shall be a lien on the

user's premises and for collection purposes shall be treated pursuant to section 158 in the same manner as delinquent sewer service charges.

Section 143. Criminal Penalties.

- (a) Violating this ordinance, wastewater discharge permit or order.
 - (1) A person who violates any provision of or fails to perform any duty imposed by this ordinance or who violates any provision of or fails to perform any duty imposed by a wastewater discharge permit or order issued under this ordinance is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or other amount allowed by law per violation or imprisonment not exceeding 90 days or both.
 - (2) In addition to any criminal penalties imposed on a person convicted under this section, the person may be enjoined from continuing the violations.
 - (3) The rules set forth in subsection 141(b) shall apply in the counting of violations.
- (b) False statements in required documents. A person is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or other amount allowed by law or imprisonment not exceeding 90 days or both if the person:
 - (1) knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under this ordinance or any wastewater discharge permit or order issued under this ordinance; or
 - (2) falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this ordinance or any wastewater discharge permit or order issued under this ordinance.

Section 144. Public Nuisance.

Every violation of this ordinance or a wastewater discharge permit or order issued pursuant to this ordinance is a public nuisance.

Section 145. Supplemental Enforcement Remedies.

(a) Performance Bonds

Lowell Township may decline to reissue a wastewater discharge permit to any user who has failed to comply with the provisions of this ordinance or any order or previous wastewater discharge permit issued hereunder unless such user first files with it a satisfactory performance bond, as determined by Lowell Township, to assure consistent compliance.

(b) Liability Insurance

Lowell Township may decline to reissue a wastewater discharge permit to any user who has failed to comply with the provisions of this ordinance or any order or previous permit issued hereunder, unless the user first submits proof that it has obtained liability insurance, bond, letter of credit or other financial assurance in an amount sufficient, as determined by Lowell Township, to restore or repair sanitary sewer system damage caused by its discharge.

(c) Suspension of Water and/or Sewer Service

Lowell Township may suspend water and/or sewer service when such suspension is necessary in the opinion of Lowell Township to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with sewer treatment or causes the township to violate its NPDES permit.

Section 146. Affirmative Defenses.

(a) Local limit compliance - unchanged discharge defense

If Lowell Township or Vergennes brings an action against a user alleging a violation of section 5, then the user may assert as an affirmative defense that:

- (1) the user did not know or have reason to know that its discharge, alone or in combination with discharges from other sources, would cause pass-through or interference; and
- (2) either:
 - (A) a local limit designed to prevent pass-through or interference was developed and the user was in compliance with the local limit immediately

before and during the pass-through or interference, or

(B) a local limit was not applicable and immediately before and during the pass-through or interference the user's discharge did not substantially change in volume or constituents from the user's previous discharges when the city was in compliance with its NPDES permit and all applicable requirements for sludge use or disposal.

(b) Upset defense

A user shall have an affirmative defense to an action brought for noncompliance with a categorical pretreatment standard if:

(1) the user demonstrates, through properly signed, contemporaneous operating logs or other evidence:

(A) the cause of the noncompliance;

(B) that the noncompliance was unintentional and temporary;

(C) that the facility was being operated in a prudent manner in compliance with all applicable operation and maintenance procedures; and

(D) that the noncompliance was caused by factors beyond the reasonable control of the user and not caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation; and

(2) the user reports the noncompliance according to section 57.

(c) Bypass defense

A user shall have an affirmative defense to an action brought for noncompliance with section 8 if the user demonstrates that:

(1) (A) the bypass did not cause a violation of any pretreatment standard or requirement; and

(B) the bypass was essential for maintenance necessary to ensure efficient operation; or

- (2) (A) the bypass was unavoidable to prevent loss of life, personal injury, severe property damage, damage to treatment facilities that would cause them to become inoperable, or substantial and permanent loss of natural resources, but not merely economic loss caused by delays in production;
- (B) the user had no alternative to the bypass, such as using auxiliary treatment facilities, retention of untreated waters, or maintenance during normal periods of equipment downtime;
- (C) if the bypass occurred during normal periods of equipment downtime or equipment maintenance, reasonable engineering judgment indicates that backup equipment was not justified; and
- (D) the user submitted the reports required by section 56.

Section 147. Effect of Approval of Plans, Specifications or Operating Procedures.

Lowell Township and/or Vergennes Township approval of plans, specifications or operating procedures does not entitle a user to relief from enforcement actions if the treatment facilities do not achieve compliance with the applicable pretreatment standards and requirements.

Section 148. Severability.

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

Section 149. Conflict.

All ordinances and parts of ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

Section 150. Effective Date.

This ordinance shall take effect ten (10) days after notice of its adoption is published in a newspaper of general circulation in the township.

Yeas: Board members COOK, NAUTA, BAIRD, WEBER and HOFFMAN

Nays: Board members NONE

Absent: Board members NONE

Abstain: Board members NONE

ORDINANCE DECLARED ADOPTED.

Jenean Hoffman, Township Clerk
(Original document has signature)

Jim Cook, Township Supervisor
(Original document has signature)

CERTIFICATION

I, Jenean Hoffman, Township, Township Clerk of the Township of Vergennes, hereby certify that the above ordinance was adopted at a regular meeting of the Vergennes Township Board on October 11, 1993, and was published in Lowell Ledger, a newspaper of general circulation in the Township on October 27, 1993 was entered into the Ordinance Book of the Township on October 27, 1993, and was effective November 27, 1993, 30 days after publication.

Jenean Hoffman, Township Clerk
(Original document has signature)

Jim Cook, Township Supervisor
(Original document has signature)