

Charter Township of



**Industrial Pretreatment Sewer Use
and Discharge Ordinance
Ordinance No. 140**

**Charter Township of Alpena
4583 US-23 North
Alpena, Michigan 49707**

Revised August, 2019

**CHARTER TOWNSHIP OF ALPENA
ALPENA COUNTY, MICHIGAN
ORDINANCE NO. 140
INDUSTRIAL PRETREATMENT SEWER USE AND DISCHARGE ORDINANCE**

An ordinance setting forth requirements for discharges into the Charter Township of Alpena's wastewater collection system; to enable the Township to protect the public health, the environment, and the City of Alpena's wastewater treatment plant and sewage collection system; to provide for the regulation of discharges into the Township wastewater system through the issuance of permits and the enforcement of administrative regulations; to provide for the payment of fees; to determine the responsibilities and liabilities of parties for activities related to the system; to provide for enforcement hereof; to provide penalties for the violation hereof; and to repeal prior inconsistent ordinances.

THE CHARTER TOWNSHIP OF ALPENA, ALPENA COUNTY, MICHIGAN, ORDAINS:

The Charter Township of Alpena
Industrial Pretreatment Sewer Use and Discharge Ordinance
Ordinance No. 41
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This Industrial Pretreatment Sewer Use and Discharge Ordinance shall be used in conjunction with The Charter Township of Alpena Construction Standards and Specifications and the Sanitary Sewer and Water Ordinance.

SUBDIVISION A. GENERAL PROVISIONS

SECTION I. PURPOSE AND POLICY.

This ordinance sets forth requirements for discharges into The Charter Township of Alpena's wastewater collection system, surface waters, ground waters, storm sewers, septic systems, dry wells, on the ground, or into the City of Alpena's POTW (as defined in Section II of this ordinance); and enables the Charter Township of Alpena to protect public health, the environment, and the City of Alpena's POTW in conformity with all applicable local, State and Federal laws relating thereto.

The objectives of this ordinance are:

- (a) To control or prevent the introduction of pollutants into the municipal wastewater system which will interfere with the normal operating of the system or contaminate the resulting municipal sludge;
- (b) To control or prevent the introduction of pollutants into the municipal wastewater system which do not receive adequate treatment in the POTW, and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (c) To improve the opportunity to recycle and reclaim wastewater and sludge for the system;
- (d) To control or prevent discharges or potential discharges (storage of materials) to systems or areas under the jurisdiction of this municipality that may impair the environment.

This ordinance provides for the regulation of discharges into the wastewater system or other discharges through the issuance of permits, or enforcement of administrative regulations. This ordinance does not provide for the recovery of operations, maintenance or replacement costs of the City of Alpena's POTW or the costs associated with the construction, collection, and treatment systems used by industrial dischargers, in proportion to their use of the POTW, which are the subject of separate enactments.

SECTION II. DEFINITIONS.

Act: The Clean Water Act (33 U.S.C. 1251 et seq), as amended.

Applicable Pretreatment Standard: Any pretreatment limit or prohibitive standard (Federal and/or local) contained in this ordinance deemed to be the most restrictive which nondomestic users will be required to comply with.

Approval Authority: The director of the State pretreatment program in NPDES State with an approved State pretreatment program and the administrator of the DPA in a non-NPDES State or NPDES State without an approved State pretreatment program.

Authorized Representative of Industrial User: An authorized representative of an industrial user may be:

- (a) A principal executive officer of at least the level of vice president, if the industrial user is a

- corporation;
- (b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
 - (c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

Average Monthly Discharge Limitation: The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all daily discharges measured during a calendar month, divided by the number of daily discharges measured during that month.

Average Weekly Discharge Limitation: The highest allowable average of “daily discharges” over a calendar week, calculated as the sum of all daily discharges, measured during a calendar week, divided by the number of daily discharges measured during that week.

Beneficial Uses: These uses include, but are not limited to, domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by State or Federal law.

Bypass: The intentional diversion of water streams from any portion of an industrial user’s treatment facility.

Categorical Pretreatment Standards: National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into a POTW by specific industrial discharges.

City: City of Alpena.

Collection System: All sewers and conveyance appurtenances connecting to and discharging to either the City’s collection system for eventual connection and discharge to the City’s sewage treatment works, or to the City’s sewage treatment works directly.

Composite Sample: A composite sample should contain a minimum of eight (8) discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period. More than the minimum number of discrete samples will be required where the wastewater loading is highly variable.

Control Authority: The State or local governmental entity enacting and enforcing this ordinance or, where applicable, the City of Alpena, as to the operation and/or effects as to its POTW.

Daily Discharge: Discharge of a pollutant “measured during a calendar day or any twenty-four (24) hour period that reasonably represents the calendar for purposes of sampling”.

Discharger-Industrial Discharger: Any non-residential user who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.

DNR: The Michigan Department of Natural Resources.

Easement: An acquired legal right of the specific use of land owned by others.

U.S. Environmental Protection Agency or EPA: The U.S. Environmental Protection Agency, or where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of said agency.

Garbage: Any solid wastes from the preparation, cooking, or dispensing of food and from handling, storage, or sale of produce.

Ground (Shredded) Garbage: Garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing in the sewerage system, with no particle being greater than one-half (1/2) inch in dimension.

Grab Sample: A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the water stream and without consideration of time.

Indirect Discharge: The discharge of the introduction of non-domestic pollutants from a source regulated under Section 307 (b) or (c) of the Act, into a POTW.

Industrial User: Any industrial or commercial establishment manufacturing or processing facility that discharges industrial waste to a publicly owned treatment works.

Industrial Waste: Solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, or business process, or from the development, recovery, or processing of natural resources.

Industrial Waste Permit: A permit to deposit or discharge industrial waste into any sanitary sewer as issued by the Township.

Influent: The water, together with any waste that may be present, flowing into a drain, sewer, receptacle, or outlet.

Interference: The inhibition or disruption of the POW treatment processes or operations which contribute to a violation of any requirement of the City's NPDES permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with Section 405 of the act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent State criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal of use employed by the PTOW.

Maximum Daily Discharge Limitation: Highest allowable “daily discharge.”

May: Indicates discretionary condition.

National Categorical Pretreatment Standard or Pretreatment Standard: Any regulation containing pollutant discharge limits promulgated by the DPA in accordance with Section 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users.

New Source: Any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307 (c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:

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

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

Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

- (a) Begun, or caused to be as part of a continuous onsite construction program;
 - (1) Any placement, assembly, or installation of facilities or equipment; or,
 - (2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or,
- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

NPDES Permit: National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 92-500.

O and M: Operation and Maintenance.

Other Wastes: Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

Person: Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, association, society, institution, enterprise, governmental agency, the State of Michigan, the United States of America, or other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

Pollutant: Any substance discharged into a POTW or its collection system listed in Appendices A and B hereto, or any substance in which, upon exposure to or assimilation into any organism, will cause adverse effects such as cancer, genetic mutations, or physiological manifestations as defined in standards issued pursuant to Section 307 (a) of the Act.

Pollutant parameters:

- (a) Biological Oxygen Demand (BOD) – Of sewage, sewage effluent, polluted waters or industrial wastes shall mean the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five (5) days at twenty (20) degrees Centigrade. The laboratory determination shall be made in accordance with procedures set forth in “Standard Methods.”
- (b) Chemical Oxygen Demand (COD) – Of sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in “Standard Methods.”
- (c) Fecal Coliform – Any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.
- (d) Floatable Oil – Oil, fat, or grease in a physical state, such that will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- (e) Grease and Oil – A group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils, or other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of their determination in accordance with “Standard Methods.”
- (f) Grease and Oil of Animal and Vegetable Origin – Substances that are of a less readily biodegradable nature such as are discharged by meat packing, vegetable oil and fat industries, food processors, canneries, or restaurants.
- (g) Grease and Oil of Mineral Origin – Substances that are less readily biodegradable than grease and oil of animal or vegetable origin; that are derived from a petroleum source. Such substances include machinery lubricating oils, gasoline station wastes, petroleum refinery wastes, storage depot wastes.
- (h) “pH” – The logarithm (to the base of 10) of the reciprocal of the hydrogen ion concentration

of a solution expressed in gram atoms per liter of solution.

- (i) Suspended Solids – Solids which either float on the surface or are suspended in water, sewage, or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with the procedures set forth in “Standard Methods.”
- (j) Total Solids – The sum of suspended and dissolved solids.
- (k) Volatile Organic Matter – The material in the sewage solids transformed to gases or vapors when heated at five hundred fifty (550) degrees Centigrade for fifteen (15) to twenty (20) minutes.
 - (1) Any other pollutant parameter deemed appropriate.

Pollution: An alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial uses or facilities which serve such beneficial uses. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of the water.

POTW: Any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the Township or City.

Pretreatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW.

Pretreatment Requirements: Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard imposed on an industrial user.

Receiving Stream: The watercourse, stream, or body of water receiving the waters finally discharged from the wastewater treatment plant.

Severe Property Damage: Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage: Water-carried human wastes or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present.

Shall: Is mandatory.

Sewer: Any pipe, conduit, ditch, or other device used to collect and transport sewage or storm water from the generating source.

Significant Industrial User: A contributor that:

- (a) Has a flow of more than twenty-five thousand (25,000) gallons per average work day of process wastewater excluding sanitary non-contract cooling water and boiler blowdown.
- (b) Has a flow greater than five (5) percent of the dry weather flow carried by the municipal system receiving the waste; or,
- (c) Has in its wastes, toxic pollutants as defined pursuant to Section 307 of the Act or State Statutes and Rules; or,
- (d) Is found by the City, State of U.S. Environmental Protection Agency (DPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality or air emissions generated by the system; or,
- (e) Is designated by the control authority to have a reasonable potential to adversely affect the POTW's operation.
- (f) Is subject to categorical standards.

Significant Non-Compliance:

- (a) Chronic violations (exceedances sixty-six (66) percent of the time during a six (6) month period) of the same pollutant parameters;
- (b) Technical review criteria (TRC) violations thirty-three (33) percent or more of measurements for each pollutant; parameter taken during a six (6) month period equal to or exceeding the product of the applicable limit and the TRC value (1.4 times the limit for a conventional pollutant or 1.2 times the limit for a toxic pollutant);
- (c) A violation of pass through or interferences;
- (d) A discharge of imminent endangerment to human health, welfare, or the environment or which required the POTW to use its emergency authorities under 40 CFR 403.18 (f) (1) (VI) (B);
- (e) Violations of a compliance schedule milestone by ninety (90) days;
- (f) Violations of report submittal deadlines by thirty (30) days;
- (g) Failure to report non-compliance; and,
- (h) Any other violation deemed significant by the control authority.

Sludge: Any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plan, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under Sections 402 and 405 of the Federal Act and in the applicable requirements under Section 3001, 3004, and 4004 of the Solid Waste Disposal Act PL 94-580.

Slugload: Any substance released in a discharge at a rate and/or concentration which causes interference to a POTW. Any discharge which exceeds, for a period of duration longer than fifteen (15) minutes, more than five (5) times the average of the twenty-four (24) hour flows during normal operation or more than five (5) times the twenty-four (24) hour allowable concentration of any substance listed in Appendix A hereto, or which causes interference to a POTW.

Standard Industrial Classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

Standard Methods: Shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of “Standard Methods for the Examination of Water and Wastewater” prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

State: The State of Michigan.

Township: The Charter Township of Alpena.

Toxic Amount: Concentrations of any pollutants or combination of pollutants which, upon exposure to or assimilation into any organism, will cause adverse effects such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to Section 307 (a) of PL 92-500.

Toxic Pollutant: Defined as those substances referred to in Section 307 (a) of the Act as well as any other known potential substances capable of producing toxic effects and as listed in Appendix A herein.

Unpolluted Water: Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to sanitary sewers and wastewater treatment facilities provided.

Upset: An exceptional incident in which a discharger unintentionally and temporarily is in a state of non-compliance with the standards set forth in the standards referenced in Appendix B and/or with the individual discharge limits set forth in the discharger’s permit (whichever is more stringent) hereto due to factors beyond the reasonable control of the discharger, and excluding non-compliance to the extent caused by treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation thereof.

User: Any person that discharges, causes, or permits the discharge of wastewater into the sewerage system.

Wastewater Constituents and Characteristics: The individual chemical, physical, bacteriological, and radiological parameters, including volume, flow rate, and such other parameters that serve to define, classify, or measure the contents, quality, quantity, and strength of wastewater.

Watercourse: A channel in which a flow of water occurs, either continuously or intermittently.

SUBDIVISION B. REGULATIONS

SECTION III. GENERAL DISCHARGE PROHIBITIONS.

No discharger shall contribute or cause to be discharged directly or indirectly, any of the following described substances into the wastewater disposal system of the Township or City, or otherwise to the facilities of the Township or City:

- (a) Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion or be injurious in any other way to the operation of the POTW, or to cause unusual maintenance and operation problems, or any pollutants with a closed cut flashpoint of less than one hundred forty (140) degrees F. or sixty (60) degrees C.
- (b) Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater system or cause unusual maintenance and operation problems.
- (c) Any wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel.
- (d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, to exceed the limitation set forth in the standards referenced in Appendix B and/or with the individual discharge limits set forth in the discharger's permit (whichever is more stringent) hereto, or to cause a violation of State of Michigan Water Quality Standards. A toxic pollutant shall include but not be limited to any pollutant identified in the Toxic Pollutant List set forth in Appendix A hereto.
- (e) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair.
- (f) Any residues, sludges, or scums which are considered to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, The Clean Air Act, the Toxic Substances Control Act, or state standards applicable to the sludge management method being used.)
- (g) Any substance which will cause the POTW to violate its NPDES and/or disposal system permits.
- (h) Any substance with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.
- (i) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty (40) degrees Centigrade or one hundred-four (104) degrees Fahrenheit.
- (j) Any slugload, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a single extraordinary discharge episode for such volume or strength as to cause interference to the POTW.

- (k) Any unpolluted water including, but not limited to, non-contact cooling water.
- (l) Any wastewater containing any radioactive waste or isotopes of such half life or concentration as to exceed limits established by the authority in compliance with applicable State or Federal regulations.
- (m) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (n) Any water or waste which may contain more than one hundred (100) parts per million by weight of fat, oil or grease.
- (o) Any garbage that has not been properly shredded.
- (p) Any waters or wastes containing more than three hundred (300) mg/l of BOD or three hundred (300) mg/l of suspended solids.
- (q) Oil products in amounts causing interference or pass through.
- (r) Discharges that result in toxic gases, fumes, or vapors in a quantity capable of causing worker health and safety problems.
- (s) Trucked or hauled wastes to sanitary sewers except at points designated by the control authority.
- (t) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (u) Any wastewater having effluent characteristics in excess of:

<u>Constituent</u>	<u>Maximum Concentration (mg/l)</u>
Lead	1.2
Copper	.02
Cadmium	.02
Nickel	.23
Zinc	2.4
Chromium	.44
Mercury	.0043
Silver	1.3
PCB	.02
	Maximum
<u>Constituent</u>	<u>Concentration (mg/l)</u>
Total Benzene, Toluene Xylene and Ethylbenzene	8.3

SECTION III - A. LIMITATIONS ON WASTEWATER STRENGTH.

- (a) National Categorical Pretreatment Standards. National Categorical Pretreatment Standards as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act, and as referenced in Appendix B hereto, shall be met by all dischargers of the regulated industrial categories. An application for modification of the National Categorical Pretreatment Standards may be considered for submittal to the regional administrator by the Township and/or City, when the Township and/or City's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR 403.17.
- (b) State Requirements. State requirements and limitations on discharges to the POTW shall be

met by all dischargers which are subject to such standards in any instance in which they are more stringent than Federal requirements and limitations or those in this or any other applicable ordinance.

- (c) Right of Revision. The Township reserves the right to amend this ordinance to provide for more stringent limitations or requirements on discharges to the POTW where deemed necessary to comply with the objectives set forth in Section I of this ordinance.
- (d) Dilution. No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this division.
- (e) Supplementary Limitations. Concentration and limitations are to be established under each individual discharge permit based on information required by this ordinance and the Township and City's local limit development procedures. The Township may impose mass limitations on dischargers which are using dilution to meet the pretreatment standards or requirements of the ordinance or in other cases where the imposition of mass limitations is deemed appropriate.

SECTION III - B. SPECIAL AGREEMENTS.

No statement contained in this article shall be construed as preventing a special agreement or arrangement between the Township and the City and any industrial concern whereby an industrial waste with unusual strength or character may be accepted by the Township and the City for treatment, subject to payment thereof, by the industrial concern, unless prohibited by State or Federal regulations. Any special agreements or surcharges specifically exclude waivers of Federal categorical standards.

SECTION III – C. ACCIDENTAL DISCHARGES.

1. Each discharger shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this ordinance. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Township for review, and shall be approved by the Township before construction of the facility. Each existing discharger shall complete its plan and submit same to the Township as required under their permit requirements. No discharger who discharges to the POTW after the aforesaid date shall be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the Township. Review and approval of such plans and operating procedures by the Township shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this ordinance.

Dischargers shall notify the Township, or if the Township cannot be reached, the City at its POTW, in advance if possible, or immediately upon the occurrence of a "slugload", or accidental discharge of substance prohibited by this ordinance. The notification shall include location of discharge, date and time thereof, type of waste, concentration and

volume, and corrective actions. Any discharger who discharges a slugload of prohibited materials shall be liable for any expense, loss or damage to the Township's collection system or to the City's POTW, in addition to the amount of any fines imposed on the Township or City on account thereof under State or Federal law.

2. All industrial users/dischargers shall notify the EPA, State of Michigan Department of Natural Resources and the Township and City of Alpena POTW of any discharge of a listed or characteristic RCRA (Resource Conservation and Recovery Act) hazardous waste.
3. Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedure.
4. Changes in discharge. Each discharger shall notify the control authority promptly in advance of the occurrence of a discharge of significantly different volume or characteristics. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume. Any discharger who discharges a waste of significantly different volume or characteristics shall be liable for any expense of treating additional waste.
5. Pretreatment bypass. All pretreatment system bypass is specifically prohibited unless unavoidable or justifiable. The authority must receive notice promptly in advance of any pretreatment bypass. The notification shall include the location of discharge, date and time thereof, type of waste, concentration and volume. Any discharger who bypasses pretreatment process shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the authority or account thereof under State and Federal law.

Bypass is allowed if it does not cause a violation of applicable, categorical pretreatment standards or local limits and is for "essential maintenance." If the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, and there were no feasible alternatives, then, in such instances, the bypass will be considered excusable bypass; subject to the condition, however, that the discharger is hereby required to submit prior notification to the control authority in advance of the need for bypass, if the industrial user has prior knowledge of same, and subject to the further condition that the discharger is hereby required to give oral notice of anticipated bypass within twenty-four (24) hours and written notice within five (5) days of said bypass.

SUBDIVISION C. FEES

SECTION IV. PURPOSE.

It is the purpose of this subdivision to provide for the payment of fees from dischargers to the Township's wastewater disposal system, to compensate the Township for the cost of administration of the pretreatment program established herein.

SECTION IV-A. CHARGES AND FEES.

The Township shall adopt charges and fees which may include:

- (a) Fees for administration of the programs, monitoring, inspections, and surveillance procedures.
- (b) Fees for permit applications (permits only).
- (c) Fees for filing appeals.
- (d) Fees, as the Township may from time to time adopt, for any other administrative activity.

All dischargers subject to this ordinance shall also be subject to and responsible for all other sewer usage fees as established by virtue of the Township Sewer and Water Ordinance.

If the character of any discharge to sewers permitted by this ordinance shall be to impose any unreasonable burden upon the Township's collection system or to the City's POTW over and above maximum limits as prescribed by the Township or City, then the Township has the right to impose an additional charge upon the discharger over and above regular rates. Such surcharge shall be equal to that surcharge imposed upon the Township by the City for the treatment of the discharge plus the additional cost incurred by the Township in the operation of its collection system because of the discharge, including costs for system operation and maintenance, and replacement. Should more than one discharger discharge similar effluent requiring surcharge, each discharger shall pay its prorated share of the additional cost relating to that discharge based upon the ratio of the weight of each individual's effluent to the total weight of similar effluent treated per year.

SUBDIVISION D. ADMINISTRATION

SECTION V. WASTEWATER DISCHARGE.

It shall be unlawful to discharge sewage, industrial wastes or other wastes without a permit or waiver by the Township to any surface water, groundwater, storm water, sanitary sewer, septic system, dry well or other system within the jurisdiction of the Township and/or the City's POTW.

SECTION V-A. WASTEWATER DISCHARGE PERMITS OR WAIVERS.

- (a) General. All industrial dischargers proposing to connect to or discharge sewage, industrial waste and other wastes to the Township's collection system or to the City's POTW shall obtain a wastewater discharge permit or waiver before connecting to or discharging to the Township's collection system or to the City's POTW. All existing industrial dischargers connected to or discharging to the Township's collection system or to the City's POTW shall obtain a wastewater discharge permit or waiver within sixty (60) days after the effective date of this ordinance. All existing industrial dischargers planning a new, increased, or modified discharge shall obtain a new permit or waiver ninety (90) days prior to initiation of operations of the new or modified facilities. An application for renewal of a permit or waiver which will expire shall be submitted one hundred (100) days prior to the expiration

date and shall note any changes in the discharge since the issuance of the last permit or waiver.

- (b) Permit Application. Industrial dischargers shall complete and file with the Township a permit application or waiver application in the sequence hereby prescribed by the Township and accompanied by the appropriate fee. Existing industrial dischargers shall apply for a wastewater discharger permit or waiver within sixty (60) days after the effective date of this ordinance, and proposed new dischargers shall apply at least ninety (90) days prior to connecting to the Township's collection system or to the City's POTW. No discharge permit or waiver shall be issued unless and until the following information has been provided or the following conditions have been met.
- (1) Disclosure of name, address, and location of the discharger.
 - (2) Disclosure of standard industrial classification (SIC) number according to the Standards Industrial Classification Manual (Appendix C. edited list), Bureau of the Budget, 1972, as amended.
 - (3) Provide a plan map of the building, works, or complex, with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse, or ground waters noted, described, and the waste stream identified. Air exhaust vents and rupture disks will also be noted when serving areas where potential problems exist. Contaminants that can accumulate on roofs from exhaust vents and be flushed to the groundwater or sewers during a rain will be noted.
 - (4) Provide detailed plans of treatment facilities; chemical or fuel storage areas, chemical use areas; operation and support facilities that may affect waste control. Provide plans of plumbing and plans of inspection or sampling manholes. Provide plans for secondary containment at storage areas or large volume use areas to prevent sudden losses of materials from the plant to surface waters, ground waters, storm sewers or sanitary sewers.
 - (5) Provide a report on raw materials entering the process or support system, intermediate materials, final products, and waste byproducts, as those factors may affect waste control.
 - (6) Provide information on:
 - (a) Each source of water.
 - (b) The amount of waste from each source.
 - (c) The amount of water discharged at each location.
 - (d) A schedule of average daily flow, peak flow rates, time and duration of flow variations and seasonal or monthly variations at each location.
 - (e) A statement on the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes.
 - (f) A schedule on the variation of characteristics of the wastes including average daily concentrations, peak concentrations, time and duration of concentrations, seasonal or monthly variations, corresponding flow rates or mass loadings (pounds/hour or pounds/day).
 - (7) Provide a statement on whether or not compliance is being achieved with this ordinance on a continuing basis or whether additional equipment, operational changes, or maintenance activities are necessary for compliance with this ordinance.

- (8) Provide guidelines for prompt control of potential spills, including equipment, materials, control procedures, clean up procedures, personal protection required and requirements for notification of plant and governmental officials. Evaluate effects of potential losses in the sewer systems or other discharge point.
- (9) Provide a schedule to sample, test, and file reports with the Township and appropriate State agencies on appropriate characteristics of wastes at locations, and according to methods approved by the Township.
- (10) Place waste treatment facilities, process facilities, waste streams, storage facilities, transfer facilities, or other potential waste problems under the specific supervision and control of persons who have been designed by the owner and who have been accepted or certified by the Township, City or the State, as properly qualified to supervise such facilities.
- (11) Provide a manual(s) of instruction for operation of waste control facilities, for loading and unloading of chemicals, for laboratory control, for other matters related to a pollution incident prevention plan, and for the training of personnel in the above areas of concern.
- (12) Maintain records and file reports on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents, or other wastes.
- (13) If any industrial process is to be altered as to include or negate a process waste or potential waste, written notification shall be given to the Township subject to approval.
- (14) All permit applications for new or modified permits shall be signed by a principal executive officer of the discharger and, unless waived by the Township, a qualified engineer (licensed professional). All renewal applications for existing permits shall be signed by a principal executive officer of the discharger.

SECTION V-B. CONSTRUCTION SCHEDULE.

Where additional pretreatment and/or operation and maintenance activities will be required to comply with this ordinance, the discharger shall provide a declaration of the shortest schedule by which the discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.

- (1) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operational pretreatment required for the discharger to comply with the requirements of this ordinance including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this division.
- (2) Under no circumstances shall the Township allow a time increment for any single step directed toward compliance which exceeds nine (9) months.
- (3) Not later than fourteen (14) days following each milestone date in the schedule and the

final date for compliance, the discharger shall submit a progress report to the Township including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date, and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and steps being taken by the discharger to return the construction to the approved schedule. In no event shall more than nine (9) months elapse between such progress reports to the Township.

- (4) New sources shall install and have in operating condition, and shall “start-up” all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days), new sources must meet all applicable pretreatment standards.

SECTION V-C. PLAN REVIEW.

The Township shall be provided with all plans, specifications, shop drawings, and operations and maintenance manuals for review and approval prior to initiation of construction for all secondary containment facilities, pretreatment facilities, and /or operational facilities required to comply with this ordinance.

SECTION V-D. PERMIT MODIFICATIONS.

The Township reserves the right to amend any wastewater discharge permit or waiver issued hereunder in order to assure compliance by the Township with applicable laws and regulations. Within nine (9) months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of each discharger subject to such standards shall be revised to require compliance with such standards within the timeframe prescribed by such standards. All national categorical pretreatment standards adopted after the promulgation of this ordinance shall be adopted by the Township as part of this ordinance. Where a discharger, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by Section V-A (b), the discharger shall apply for a wastewater discharge permit from the Township within one hundred eighty (180) days after the promulgation of the applicable national categorical pretreatment standard by the U.S. EPA. In addition, the discharger with an existing wastewater discharge permit shall resubmit to the Township within one hundred eighty (180) days after the promulgation of an applicable national categorical pretreatment standard, the information required by Section V-A (b). The discharger shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

SECTION V-E. PERMIT CONDITIONS.

Waste water discharge permits shall specify no less than the following:

- (a) Fees and charges to be paid upon initial issuance.
- (b) Limits on the average and maximum wastewater constituents and characteristics regulated thereby.
- (c) Limits on average and maximum rate and time of discharge and/or requirements for flow

- regulations and equalization.
- (d) Requirements for installation and maintenance of inspection and sampling facilities.
 - (e) Special conditions as the Township may reasonably require under particular circumstances of given discharge including sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules.
 - (f) Compliance schedules.
 - (g) Requirements for submission of special technical reports of discharge reports where same differ from those prescribed by this ordinance.

SECTION V-F. PERMIT DURATIONS.

All wastewater discharge permits shall be issued for a three (3) year duration, subject to amendment or revocation as provided in this ordinance. A permit may be issued for a shorter or longer period or may be stated to expire on a specific date.

SECTION V-G. LIMITATIONS ON PERMIT TRANSFER.

Wastewater discharge permits are issued to a specific discharger for a specific operation and are not assignable to another discharger or transferable to any other location without the prior written approval of the Township.

SECTION V-H. SPECIAL REPORTING REQUIREMENT, NEW DISCHARGE OR NEW TREATMENT STANDARDS.

Within ninety (90) days following the date for final compliance by the discharger with applicable pretreatment standards set forth in this ordinance or at least ninety (90) days prior to the commencement of the introduction of wastewater into the Township's collection system and/or the City's POTW by a new discharger, any discharger subject to this ordinance shall submit to the Township a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by authorized representative of the discharger, and certified to by an engineer qualified to practice in the State of Michigan.

SECTION V-I. PERIODIC COMPLIANCE REPORTS.

- (a) Any discharger subject to a pretreatment standard set forth in this ordinance, after the compliance date of such pretreatment standard or, in the case of new discharger, after commencement of the discharge to the Township, shall submit to the Township during the months of June and December, unless required more frequently by the Township, a report indicating the nature and concentration of prohibited or regulated substances in the

effluent which are limited by the pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period for the discharge reported in Section V-A (b) hereof. Flows shall be reported on the basis of actual measurement; however, where cost or feasibility considerations justify, the Township may accept reports of average and maximum flows estimated by verifiable techniques. The Township, for good cause when considering such factors as local high or low flow rates, holiday, budget cycles, or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

(b) Reports of dischargers shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the township. The frequency of monitoring by a discharger shall be prescribed in the discharger's individual permit as issued under Section V-A of this ordinance. All analysis shall be performed in accordance with 40 CFR, Part 136, and amendments thereto. (Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the DPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any sampling and analytical procedures approved by the administrator of the U.S. EPA.)

SECTION V-J. MONITORING FACILITIES.

Each discharger shall provide and operate, at the discharger's own expense, a monitoring facility or location for inspection, sampling, and flow measurement of each sewer discharge to the Township. Each monitoring facility shall be situated on the discharger's premises, except where such a location would be impractical or cause undue hardship on the discharger. The Township may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles and provided that the discharger has received a permit from the Alpena County Road Commission. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the discharger. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within one hundred twenty (120) days of receipt of a permit by an existing discharger and prior to initiation of operations by a new discharger.

SECTION V-K. INSPECTION AND SAMPLING.

The Township may inspect the monitoring facilities of any discharger to determine compliance with the requirements of this ordinance. The discharger shall allow the Township, the City, the Department of Natural Resources, or a DNR representative accompanied by a representative of the Township, upon presentation of credentials of identification, to enter upon the premises of the discharger at all reasonable hours for the purpose of inspection, sampling, or records examination or record copying. The Township, The City, the Department of Natural Resources, or a DNR representative accompanied by a representative of the Township shall have the right to set upon the discharger's

property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations.

SECTION V-L. INDUSTRIAL USER SAMPLING, REPORTING VIOLATIONS.

If any sampling performed by an industrial user pursuant to this ordinance indicates a violation, the user shall notify the Township within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Township within 30 days after becoming aware of the violation, except the industrial user is not required to resample if:

- (a) The Township performs sampling at the industrial user at a frequency of at least once per month; or,
- (b) The Township performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

SECTION V-M. BYPASS.

An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (a) and (b) of this section.

(a) Notice.

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

(b) Prohibition of Bypass.

- (1) Bypass is prohibited, and the Township may take enforcement action against an industrial user for a bypass, unless:
 - (i.) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii.) There was no feasible alternatives to the bypass, such as use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and,

- (iii.) The industrial user submitted notices as required under paragraph (b) of this section.
- (2) The Township may approve an anticipated bypass, after considering its adverse effects, if the Township determines that it will meet the conditions listed in paragraph (b) (1) of this section.

SECTION V-N. BASELINE REPORT (For Categorical Discharges Only).

- (a) Industrial users subject to national categorical pretreatment standards shall submit baseline reports to the Township and City of Alpena POTW in a form prescribed and furnished by the Township.
- (b) Within one hundred-eighty (180) days after the effective date of a national categorical pretreatment standard, or one hundred-eighty (180) days after a final administrative decision has been made upon a categorical determination submission in accordance with 40 CFR Section 403.6 (a) (4), whichever is later, industrial users which are existing sources subject to such national categorical pretreatment standards and currently discharging to the POTW shall submit a properly completed baseline report.
- (c) New sources, when subject to a national categorical pretreatment standard, shall submit a baseline report at least ninety (90) days prior to commencement of discharge to the POTW.
- (d) In support of the baseline report, the industrial user shall submit, in units and terms specified in the application, the following information:
 - 1. Name and address of the facility including the name of the operator and owners.
 - 2. List of any environmental control permits held by or for the facility.
 - 3. Brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such user. This description shall include a schematic process diagram indicating points of discharge to the POTW from the regulated processes.
 - 4. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - a. Regulated process streams; and,
 - b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR Section 403.6 (e).
 - 5. The industrial user shall identify the national categorical pretreatment standards applicable to each regulated process, and shall:
 - a. Submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations.
 - b. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty-four (24) hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The control authority may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is not feasible. In such cases samples may be obtained

through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

- c. The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - d. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula of Section 403.6 (3) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with Section 403.6 (e) this adjusted limit along with supporting data shall be submitted to the POTW.
6. The industrial user shall provide a statement reviewed by the authorized representative of the industrial user and certified by a qualified professional, indicating whether national categorical pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance measures (O&M) or additional pretreatment is required for the industrial user to meet the national categorical pretreatment standards.
 7. If additional pretreatment or O&M will be required to meet the national categorical pretreatment standards, the industrial user will provide the shortest schedule which will provide such additional pretreatment or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable national categorical pretreatment standard.
 - a. Where the industrial user's pretreatment standard has been modified by a removal allowance (40 CFR Section 403.7) or the combined waste formula (40 CFR Section 403.6 (e)), or net/gross calculations (40 CFR Section 403.15), at the time the industrial user submits a baseline report the information required in Section V-N (6) and (7) shall pertain to the modified limits.
 - b. If the national categorical pretreatment standard for the industrial user is modified after the baseline report is submitted, the industrial user shall make any necessary amendments to information provided as a response to Section V-N (d) (6) and (7) and submit them to the POTW within sixty (60) days after the modified limit is approved.
 8. The following conditions shall apply to any schedule submitted in response to Section V-N (d) (7):
 - a. 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 national categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing construction, completing construction, etc.)
 - b. No increment referred to in Section V-N (d) (8) (a) shall exceed nine (9) months.
 - c. Not later than fourteen (14) days following each date in the schedule and the final

date for compliance, the user shall submit a progress report to the POTW including, at 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 industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the POTW.

9. Such other information as may be reasonably requested by the POTW.

SECTION V-O. COMPLIANCE DATE REPORT.

- a. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or, in the case of new source, following commencement of the introduction of wastewater into the POTW, any user subject to categorical pretreatment standards shall submit to the POTW a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. Where equivalent mass or concentration limits are established by the POTW for a user, this report shall contain a reasonable measure of the user's long-term production rate. Where a user is subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards. This statement shall be signed by an authorized representative of the industrial user, and certified to by a qualified professional.
- b. The reports required by Sections V-H and V-I shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons approved by the administrator. This sampling and analysis may be performed by the POTW in lieu of the industrial user. Where the POTW itself collects all the information required for the report, the significant industrial user will not be required to submit the report.
- c. If sampling performed by an industrial user indicates a violation, the user shall notify the POTW within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within thirty (30) days after becoming aware of the

- violation, except the industrial user is not required to resample if:
1. The POTW performs sampling at the industrial user at a frequency of at least once per month, or
 2. The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.
- d. The reports required in paragraphs (a) and (d) of Section V-I shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The POTW shall require the frequency of monitoring necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.
 - e. If an industrial user subject to the reporting requirements of Sections V-I, V-N, and V-O monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in this section, the results of this monitoring shall be included in the report.
 - f. Signatory requirements for industrial user reports. The reports required by Section V-I, V-N and V-O shall include the certification statement as set forth in 40 CFR 403.6 (a) (2) (ii) and shall be signed by an authorized representative.
 - g. The POTW shall require appropriate reporting from those industrial users with discharges that are not subject to categorical pretreatment standards and are not otherwise deemed by the POTW to be significant.

SECTION V-P. HAZARDOUS WASTE NOTIFICATION.

- a. Any industrial user, except as specified in subpart (e) below, which discharges to the POTW any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR part 261, shall notify the POTW in writing of such discharge.
- b. All hazardous waste notifications shall include:
 1. The name of the hazardous waste as set forth in 40 CFR Part 261.
 2. The DPA hazardous waste number.
 3. The type of discharge (continuous, batch, or other).
 4. A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- c. In addition to the information submitted in Section V-P (b), industrial users discharging more than one hundred (100) kg of hazardous waste per calendar month to the POTW shall contain to the extent such information is known and readily available to the industrial user.
 1. An identification of the hazardous constituents contained in the waste;
 2. An estimation of the mass and concentration of such constituents in the water stream discharged during that calendar month; and,
 3. An estimation of the mass of constituents in the water stream expected to be

discharged during the following twelve (12) months.

- d. Hazardous waste notifications shall be submitted no later than February 19, 1991, except that industrial users commencing the discharge of listed or characteristic hazardous wastes after August 23, 1990, shall provide the notification no later than one hundred-eighty (180) days from the discharge of the wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted under Section 1.8 (b) of this division.
- e. industrial users are exempt from the hazardous waste notification requirements during a calendar month in which they discharge 15 kg or less of non-acute hazardous wastes. Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33 (e) requires one (1) time notification.

SECTION V-Q. CONFIDENTIAL INFORMATION.

Information and data furnished to the Township for use by the Township or City of Alpena with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the discharger specifically requests and is able to demonstrate to the satisfaction of the Township that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets or proprietary information of the discharger. When requested by a discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this ordinance, the national pollutant discharge elimination system (NPDES) permit, state disposal system permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or State agency in judicial review or enforcement proceedings involving the discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information. Information accepted by the Township as confidential shall not be transmitted to any governmental agency or the general public by the Township unless a ten (10) day notification is given to the discharger.

SUBDIVISION E. ENFORCEMENT

SECTION VI. EMERGENCY SUSPENSION OF SERVICE AND DISCHARGE PERMITS OR WAIVERS.

The Township may, for good cause shown, suspend the wastewater treatment service, the water supply service, and/or the wastewater discharge permit or waiver of a discharger when it appears to the Township that an actual or threatened discharge presents or threatens: a violation of the NPDES permit; an imminent or substantial danger to the health or welfare of persons; an adverse impact to the environment; interference with the operation of the POTW; violation of any pretreatment limits imposed by the ordinance or violation of any wastewater discharge permit or waiver issued pursuant to this ordinance. Any discharger notified of the suspension of the Township wastewater treatment service, the water supply service, and/or the

discharger's wastewater discharge permit or waiver shall within a period of time, as determined by the Township, cease all discharges. In the event of failure of the discharger to comply voluntarily with the suspension order within the specified time, the Township shall notify the Department of Natural Resources and commence judicial proceedings immediately thereafter to compel the discharger's compliance with such order. The Township shall reinstate the wastewater discharge permit or waiver and/or the wastewater treatment service and terminate judicial proceedings upon proof by the discharger of the elimination of the noncomplying discharge or conditions creating the threat as set forth above.

SECTION VI-A. REVOCATION OF PERMIT OR WAIVER.

The Township may revoke the permit or waiver of any discharger which fails to:

- a. Factually report the wastewater constituents and characteristics of its discharge;
- b. Report significant changes in wastewater constituents or characteristics;
- c. Refuses reasonable access to the discharger's premises by representatives of the Township, the City, or the Department of Natural Resources, as accompanied by a representative of the Township, for the purpose of inspection or monitoring;
- d. Violates the conditions of its permit, waiver, or this division, or any final judicial order entered into with respect thereto.

SECTION VI-B. NOTIFICATION OF VIOLATION; ADMINISTRATIVE ADJUSTMENT.

Whenever the Township finds that any discharger has engaged in conduct which justifies revocation of a wastewater discharge permit or waiver pursuant to Section VI-A hereof, the Township shall serve or cause to be served upon such discharger a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within ten (10) continuous days of the date of receipt of the notice, the discharger shall respond personally or in writing to the Township advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the veracity of the allegations and, where necessary, establish a plan for the satisfactory correction hereof.

SECTION VI-C. SHOW CAUSE HEARING.

Where those violations as noted in Section VI-A hereof are not corrected by timely compliance by means of administrative adjustment, the Township may order any discharger which causes or allows conduct prohibited by Section VI-A hereof, to show cause before the Township or its duly authorized representative, why the proposed revocation action should not be taken. A written notice shall be served on the discharger by personal service, certified or registered, return receipt requested, specifying the time and place of a hearing to be held by the Township or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the discharger to show cause before the Township or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings at

the hearing shall be considered by the Township which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or State laws, if any there be.

SECTION VI-D. JUDICIAL PROCEEDINGS.

Following the entry of any order by the Township with respect to the conduct of a discharger contrary to the provisions of the Section hereof, the attorney for the Township may, following the authorization of such action by the Township, commence an action for appropriate legal and/or equitable relief with any appropriate local court.

SECTION VI-E. ENFORCEMENT ACTIONS; ANNUAL PUBLICATION.

A list of all significant dischargers which were the subject of enforcement proceeding pursuant to Subdivision E of this ordinance during the twelve (12) previous months, shall be annually published by the authority in the largest daily newspaper published in the municipality in which the authority is located, summarizing the enforcement action taken against the dischargers during the same twelve (12) months whose violations remained uncorrected forty-five (45) or more days after notification of non-compliance over that twelve (12) month period, or which involve failure to accurately report non-compliance.

SECTION VI-F. RIGHT TO REQUEST INTERPRETATION.

Any discharger or any interested party shall have the right to request, in writing, an interpretation or ruling by the authority on any matter covered by this ordinance and shall be entitled to a prompt written reply.

SECTION VI-G. OPERATING UPSETS.

Any discharger which experiences an upset in operations which places the discharger in a temporary state of non-compliance with this ordinance or a wastewater discharge permit issued pursuant hereto shall inform the Township immediately upon first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the Township within five (5) days. The report shall specify:

- (a) Description of the upset, the cause thereof, and the upset's impact on a discharger's compliance status.
- (b) Duration of non-compliance, including exact dates and times of non-compliance; and if the non-compliance continues, the time by which compliance is reasonably expected to occur.
- (c) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset or other conditions of non-compliance.

A documented and verified bona fide operating upset report shall be an affirmative defense to any enforcement action brought by the Township against a discharger for any non-compliance with the ordinance or any wastewater discharge permit or waiver pursuant hereto, which arises out of violations alleged to have occurred during the period of the upset.

SECTION VI-H. AFFIRMATIVE DEFENSES.

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in Section III of this ordinance and the specific prohibition in Section III (b), III (i), III (q) and III (r) of this ordinance where the user can demonstrate that:

1. It did not know or have reason to know that its discharge, along or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and,
2. Local Limit.
 - a. A local limit designed to prevent pass through and/or interference, as the case may be, was developed in accordance with 40 CFR 403, for each pollutant in the user's discharge that caused pass through or interference, and the user was in compliance with each such local limit directly prior to and during the pass through or interference; or,
 - b. If a local limit designed to prevent pass through and/or interference, as the case may be, has not been developed in accordance with 40 CFR 403, for the pollutant(s) that caused the pass through or interference, the user's discharge directly prior to and during the pass through or interference did not change substantially in nature or constituents from the user's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements, and, in the case of the interference, applicable requirements for sewage use or disposal.

SUBDIVISION F. PENALTIES

SECTION VII. PENALTIES.

- 1) Any person or organization who violates any of the provisions of this Ordinance shall be responsible for a municipal civil infraction, as defined by Section 113 of the Revised Judicature Act of 1961, being Michigan Public Act 236 of 1961, as amended ("Public Act 236").
- 2) The Charter Township of Alpena Department of Public Works Director, the Charter Township of Alpena Supervisor, and the Charter Township of Alpena officials and employees as may be authorized by the Charter Township of Alpena Board of Trustees are authorized to administer and enforce this ordinance and issue municipal civil infraction citations.
- 3) A municipal civil infraction action may be commenced upon the issuance by an authorized local official directing the defendant to appear in court.
- 4) Failure of the defendant to appear within the time specified on a citation or at the time scheduled for a hearing or appearance is a misdemeanor punishable by up to ninety (90) days

- in jail and/or up to a \$500.00 fine, plus costs of prosecution, and can result in the entry of a default judgment against the defendant on the municipal civil infraction.
5. A defendant found responsible by the judge or magistrate for a violation of this ordinance shall pay a fine not to exceed \$500.00, plus costs not to exceed \$500.00, which are not limited to the costs taxable in ordinary civil actions and may include all expenses, direct and indirect, to which the Township has been put in connection with the municipal civil infraction, up to the entry of judgment. Except as otherwise provided by law, costs shall be payable to the general fund of the Township.
 6. In addition to ordering a defendant to pay a civil fine and costs, the court may issue and enforce any judgment, writ, or order (including but not limited to injunctive relief) necessary to enforce this ordinance, in accordance with Section 8302 of Public Act 236.
 7. If a defendant fails to comply with an order or judgment issued pursuant to Section 8727 of Public Act 236 within the time prescribed by the court, the court may proceed under Section 8302, 8729, and 8731 of Public Act 236, as applicable.
 8. Each day on which any violation of this ordinance continues constitutes a separate offense, and the offender shall be subject to the applicable fine, costs, penalties, and sanctions for each separate offense.
 9. In addition to any remedies available at law, the Township may bring an action for an injunction or other process against a defendant to restrain, prevent, or abate any violation of this ordinance.

SECTION VII-A. RECOVERY OF COSTS INCURRED BY THE MUNICIPALITY.

Any discharger violating any of the provisions of this ordinance, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the Township's or the City's storm water or wastewater disposal system shall be liable to the Township and/or the City for any expense, loss, or damage caused by such violation or discharge. The Township shall bill the discharger for the costs incurred by the Township and/or the City for any supervision, investigation, sampling, administration, cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this ordinance enforceable under the provisions of Subdivision E of this ordinance.

SECTION VII-B. FALSIFYING INFORMATION.

Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this ordinance (or wastewater discharge permit), or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division, shall upon conviction be punished by a fine not exceeding Five Hundred and no/100 Dollars (\$500.00), or imprisonment for not more than ninety (90) days, or both.

SUBDIVISION G. RECORDS RETENTION

SECTION VIII. GENERALLY.

All dischargers subject to this ordinance shall retain and preserve for no less than five (5) years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analysis made by or in behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the Township pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

SUBDIVISION H. MISCELLANEOUS

SECTION IX. NET/GROSS CALCULATIONS.

The Township may elect to adjust categorical pretreatment standards, as required under an individual discharge permit, to reflect the presence of pollutants in the discharger's intake water, in accordance with 40 CFR 403.15.

SECTION X. ENFORCEMENT.

This ordinance shall be enforced by the Charter Township of Alpena Department of Public Works Director, his agents, employees, or contractors.

SECTION XI. PROVISIONS DEEMED SEVERABLE.

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

SECTION XII. PUBLICATION, RECORDATION, AUTHENTICATION.

This ordinance shall be published once, in full, in a newspaper of general circulation within the boundaries of the Township, and qualified under state law to publish legal notices, within 30 days after its adoption; this ordinance shall be recorded in the record of ordinances book of the Township; and the Township Supervisor and the Township Clerk shall authenticate this ordinance by placing his or her official signature upon this ordinance.

SECTION XIII. EFFECTIVE DATE.

This ordinance shall become effective immediately upon its publication as required by law.

SECTION XIV. REPEAL OF CONFLICTING PROVISIONS.

All other ordinances (including the Charter Township of Alpena Ordinance 41) and parts of other ordinances, inconsistent or conflicting with any part of this division, are hereby repealed to the extent of such inconsistency or conflict.

CERTIFICATION

I hereby certify that the foregoing constitutes a true and complete copy of an ordinance duly adopted by the Charter Township of Alpena Board of Trustees at a regular meeting held on_____.

I further certify that the following Board members were present at the meeting:

and that the following Board members were absent:_____

_____.

I further certify that the Board member_____moved for adoption of the ordinance, and the motion was supported by the Board member_____.

I further certify that the following Board members voted upon roll call vote for the adoption of the ordinance:_____

and the following Board members voted against the adoption of the ordinance: _____

_____.

Adopted and approved this____day of_____,_____, by the Charter Township of Alpena Board of Trustees.

Nathan Skibbe
Charter Township of Alpena Supervisor

Michele Palevich
Charter Township of Alpena Clerk