

City of AuGres

**SEWER PRETREATMENT ORDINANCE
(Revised August 1991)
(Revised January 1992)**

ORDINANCE NO. 36

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SECTION 1

GENERAL PROVISIONS

1.1 Purpose and Policy

This Ordinance sets forth requirements for Dischargers into the POTW Authority wastewater collection systems, treatment systems, surface waters, groundwaters, storm sewers, septic systems, dry wells or on the ground; and enables the City of AuGres to protect public health, the environment, and the 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 operation 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 from 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, execution of binding contracts, or enforcement of administrative regulations. This Ordinance does not provide for the recovery of operations, maintenance or replacement costs of the POTW or the costs associated with the construction of collection and treatment systems used by Industrial Discharges, in proportion to their use of the POTW, which are the subject of separate enactments.

SECTION 2
DEFINITIONS

- (a) Act. The Clean Water Act (33 U.S.C. 1251 et seq), as amended.
- (b) Authority. The state or local governmental entity enacting and enforcing this Ordinance.
- (c) Bypass. *The intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.*
- (d) 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 Dischargers.
- (e) 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, intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- (f) Indirect Discharge. The discharge or the introduction of nondomestic pollutants from a source regulated under Section 307(b), (c) and (d) of the Act, into a POTW.
- (g) 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, Operation and Maintenance.
- (h) Interference. The inhibition or disruption of a POTW's sewer system, treatment processes or operations which may contribute to a violation of any requirement of its NPDES permit.
- (i) New Source. *Any building, structure, facility or installation from which there is, or may be, a Discharge of pollutants in which the construction commenced after the publication of proposed Pretreatment Standards under section 307(c) (33 U.S.C. 1317) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that: (1) construction is at a site where no other source is located; or (2) the process or production equipment that causes the discharge of pollutants at an existing source is totally replaced; or (3) production or wastewater generating processes are substantially independent of an existing source at the same site.*
- (j) NPDES. National Pollutant Discharge Elimination System permit program as administered by the U.S. EPA or the state.
- (k) Other Wastes. Decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

- (l) Pollutant. Any substance discharged into a POTW or its collection system, listed in Appendices A and C thereto, or any substance 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.
- (m) POTW. Any sewage treatment works and the sewers and conveyance appurtenances discharging thereto, owned and operated by the Authority.
- (n) 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.
- (o) Sewage. Water-carried human wastes or a combination of water-carried wastes from residence, business buildings, institutions and industrial establishments, together with such ground, surface, storm, or other waters as may be present.
- (p) Sewer. Any pipe, conduit, ditch or other device used to collect and transport sewage or storm water from the generating source.
- (q) Shall. Is mandatory.
- (r) Significant Industrial User. All Industrial Users subject to Categorical Pretreatment Standards or any Industrial User that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater), contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant or has a reasonable potential for adversely affecting the POTW's operation or violating any pretreatment standard or requirement.
- (s) Significant Noncompliance.
- (1) *Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;*
 - (2) *Technical Review Criteria (TRC) violations, defined here are those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, 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 the Control Authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel 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 the POTW's exercise of its emergency authority under Section 6 of this Ordinance to halt or prevent such a discharge.*
- (5) *Failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;*
- (6) *Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90 day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;*
- (7) *Failure to accurately report noncompliance;*
- (8) *Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.*
- (t) 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 twenty four (24) hour flows during normal operation or more than five (5) times the twenty four hour allowable concentration of any substance listed in Appendices A and C hereto, or which causes interference to a POTW.
- (u) Toxic Pollutants. Those substances listed in Appendix A herein.
- (v) Upset. An exceptional incident in which a Discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in Appendices A and B hereto due to factors beyond the reasonable control of the Discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.
- (w) Wastewater. Industrial waste, or sewage or any other waste including that which may be combined with any ground water, surface water, or storm water, that may be discharged to the POTW.

SECTION 3
REGULATIONS

3.1 General Discharge Prohibitions

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

- (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, *including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade, using the test methods specified in 40 CFR 261.21,* to be injurious in any other way to the operation of the POTW, or to cause unusual maintenance and operational problems.
- (b) Solid or viscous substances which will or may cause obstruction at the flow in a sewer or other interference with the operation of the wastewater system or cause unusual maintenance and operational problems.
- (c) Any wastewater having a pH less than 5.0 or higher than 10 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel.
- (d) Any wastewater containing toxic pollutants, *gases, vapors, or fumes* in sufficient quantity, either singly or by interaction to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, *cause acute worker health and safety problems*, exceed the limitation set forth in Federal Categorical Pretreatment Standards (as adopted by the Environmental Protection Agency, which are adopted by reference and are made a part hereof) 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 substance which may cause the POTW's effluent or treatment residues, sludges, or scums, to be unsuitable for reclamation process. (In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance 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 Substance 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 other 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 at the introduction into the POTW treatment plant resulting in interference; but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Centigrade (104 degrees Fahrenheit).
- (j) Any slugload, which shall mean any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW.
- (k) Any unpolluted water including, but not limited to noncontact cooling water.
- (l) Any wastewater containing any radioactive waste or isotopes of such halflife or concentration as exceed limits established by the Authority in compliance with applicable State or Federal regulations.
- (m) Any wastewater which causes a hazard to human life, *health and safety* or creates a public nuisance.
- (n) *Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.*
- (o) *Any trucked or hauled pollutants, except at discharge points designated by the POTW.*

3.2 Limitations on Wastewater Strength

3.2.1 National Categorical Pretreatment Standards

National Categorical Pretreatment Standards as promulgated by the U.S. Environmental Protection Agency (EPA) pursuant to the Act, and as adopted as 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 Authority, when the Authority's wastewater treatment system achieves consistent removal of the pollutants as defined by 40 CFR 403.7.

3.2.2 State Requirements

State requirements for 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.

3.2.3 Right of Revision

The Authority 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 1.1 of this Ordinance.

3.2.4 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 Ordinance.

3.2.5 Supplementary Limitations

- (a) No Discharger shall discharge wastewater containing detectable concentrations of the following enumerated materials, except under permit from the authority.

Material. Arsenic, cadmium, copper, cyanide, lead, mercury, nickel, silver, total chromium, zinc.

Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in questions, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U.S. EPA.

- (b) The Authority may impose Mass Limitations on Dischargers which are using dilution to meet the Pretreatment Standards or Requirements of this Ordinance, or in other cases where the imposition of mass limitations is deemed appropriate by the Authority.

When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day of effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users. Equivalent limitations shall be deemed Pretreatment Standards which Industrial Users will be required to comply with in lieu of the promulgated categorical standards.

3.2.6 Net/Gross Calculations

Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with 40 CFR, Part 403.15 and the most recent amendment thereof.

3.2.7 Removal Credits

The POTW may, at its discretion and subject to the conditions of 40 CFR, Part 403.7, and the most recent amendment thereof, grant removal credits to reflect removal by the POTW of pollutants specified in the Categorical Pretreatment Standards. Upon being granted a removal credit, each effected Industrial User shall calculate its revised discharge limits in accordance with 40 CFR, Part 403.7 (a)(4).

3.3 Spill Prevention and Slug Control Plans

Industrial Users shall provide protection from accidental discharge of materials which may interfere with the POTW by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures shall be approved by the POTW before construction of the facility.

Industrial users that store hazardous substances shall not contribute to the POTW after effective date of this ordinance unless a spill prevention plan has been approved by the POTW. 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.

The POTW shall evaluate each significant industrial user at least once every two years, and other industrial users as necessary, to determine whether such user needs a plan to control slug discharges. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (a) Description of discharge practices, including non-routine batch discharges;*
- (b) Description of stored materials;*
- (c) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under section 3.1: General Discharge Prohibitions, with procedures for follow-up written notification within five days.*
- (d) 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 plan site runoff, worker training, building of containment structures or equipment, measures of containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.*

3.4 Allotment of POTW Capacity

The wastewater collection and treatment facilities have finite limitations for accepting flow, concentrations, or mass loadings from present or future customers. Capacity may be reserved for properties that have paid for or are paying for sanitary sewer service even though no use is now being made of the system. (Vacant property within sewer authority).

Excess capacity beyond that as reserved above will be allotted on a first-come basis determined by the date the application is received by the Authority, provided construction leading to prompt completion is underway within two (2) years of the date of approval for sewer service. Should construction not be underway, a subsequent application will be processed as above. Application dates will be as provided by the City Council and approval dates will be by the City Council. An incomplete application will be honored for thirty (30) days after notification of requirements, provided positive continuous action is underway to obtain all appropriate requirements.

SECTION 4

FEES

4.1 Purpose

It is the purpose of this Section to provide for the payment of fees from Dischargers to the Authority's wastewater disposal system and to compensate the Authority for the cost of administration of the pretreatment program established herein.

4.2 Charges and Fees

The City may adopt charges and fees which may include:

- (a) Fees for monitoring, inspections, and surveillance procedures.
- (b) Fees for permit applications.
- (c) Fees for filing appeals.
- (d) Fees for reviewing accidental discharge procedures and construction.
- (e) Fees for review of plans for additions or connections to municipal systems.
- (f) Fees for review of pretreatment plans, specifications, and construction.
- (g) Fees for special studies or continuous studies to evaluate pretreatment systems.

SECTION 5
ADMINISTRATION

5.1 Wastewater Discharges

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

5.2 Wastewater Discharge Permits

5.2.1 General

All Industrial Dischargers proposing to connect to or to discharge sewage, industrial waste and other wastes to the POTW shall obtain a Wastewater Discharge Permit before connecting to or discharging to the POTW. All existing Industrial Dischargers connected to or discharging to the POTW shall obtain a Wastewater Discharge Permit within 180 days after the effective date of this Ordinance. All existing Industrial Dischargers planning a new, increased, or modified discharge shall obtain a new Permit prior to initiation of operations of the new or modified facilities. An application for renewal of a Permit which will expire shall be submitted 100 days prior to the expiration date and shall note any changes in the discharge since the issuance of the last Permit.

5.2.2 Permit Application

Industrial Dischargers shall complete and file with the City of Augres a Permit Application in the sequence hereby prescribed by the City Council and accompanied by the appropriate fee. Existing Industrial Dischargers shall apply for a Wastewater Discharge Permit within 30 days after the effective date of this ordinance, and proposed *New Sources* shall apply at least 90 days prior to connecting to the POTW. No discharge Permit shall be issued unless and until the following information has been provided or the following conditions have been met:

- (a) Disclosure of name, address, and location of the Discharger *including the name of the facility operator and owner*;
- (b) Disclosure of Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (c) Provide a plan map of the building, works, or complex with each outfall to the surface waters, sanitary sewer, storm sewer, natural watercourse, or groundwaters 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.

- (d) Provide detailed plans of treatment facilities; chemical or fuel storage area, 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, groundwaters, storm sewers, or sanitary sewers.
- (e) Provide a report on raw materials entering the process or support systems, intermediate materials, final products, and waste by-products as those factors may affect waste control. A Material Safety Data Sheet shall be provided for all materials used, stored, or discharged, where brand names, product names, or commercial names are listed.
- (f) Provide Information:
 - Each source of water.
 - The amount of water from each source.
 - The amount of water discharged at each location.
 - A schedule of average daily flow, peak flow rates, time and duration of flow variations and seasonal or monthly variations at each location.
 - A statement on the present or expected bacterial, physical, chemical, radioactive or other pertinent characteristics of the wastes.
 - 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 pound/day).
- (g) 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.
- (h) 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 government officials. Evaluate effects of potential losses in the sewer systems or other discharge point.
- (i) Provide a schedule to sample, test, and file reports with the City of Au Gres and appropriate State agencies on appropriate characteristics of wastes at locations, and according to methods approved by the City of Au Gres.

- (j) Place waste treatment facilities, or other potential waste problems under the specific supervision and control of persons who have been designated by the owner and who have been accepted or certified by the City or the state as properly qualified to supervise such facilities.
- (k) Provide a manual(s) of instructions for operation and maintenance 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.
- (l) Maintain records and file reports on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents, or other wastes.
- (m) 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 City of AuGres subject to approval.
- (n) All permit applications for new or modified permits or waivers shall be signed by a principal executive officer of the Discharger and, unless waived by the City of AuGres, a qualified engineer (licensed professional). All renewal applications for existing permits or waivers shall be signed by a principal executive officer of the Discharger.

5.3 Plan Review

The City of AuGres 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. Direct costs for review will be billed to the discharger regardless of whether construction is initiated or not.

5.4 Permit Modifications

The City of AuGres reserves the right to amend any Wastewater Discharge Permit issued hereunder in order to assure compliance by the City of AuGres with applicable laws and regulations. Within nine (9) months of the promulgations 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 time frame prescribed by such standards. A National Categorical Pretreatment Standards adopted after the promulgation of this Ordinance shall be adopted by the City of AuGres 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 5.2.2, the Discharger shall apply for a Wastewater discharge Permit from the City of AuGres within 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 City of AuGres within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by Section 5.2.2. The Discharger shall be informed of any proposed changes in

his permit at least 30 days prior to the effective date of change. Any changes of new conditions in the permit shall include a reasonable time schedule for compliance.

5.5 Permit Conditions

Wastewater Discharge Permits shall contain, as appropriate, the following:

- (a) Statement of duration (not greater than 5 years) including issuance and expiration dates;*
- (b) Effluent limitations based on the more stringent of categorical pretreatment stands, local limits as established by this ordinance, and State and local law;*
- (c) General and specific discharge prohibitions as established by Section 3.1: General Discharge Prohibitions, of this Ordinance;*
- (d) Requirements to pay fees for the wastewater to be discharged to the POTW;*
- (e) Limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;*
- (f) Requirements for installation and maintenance of inspection and sampling facilities;*
- (g) Requirements and specifications for monitoring programs including sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;*
- (h) Compliance schedules;*
- (i) Requirements for submission of special technical reports, discharge reports or certification statements. These include any reporting requirements contained in a National Categorical Standard or Pretreatment Requirement;*
- (j) Requirements for collecting, retaining and providing access to plant records relating to the user's discharge and for providing entry for sampling and inspection;*
- (k) Requirements for notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;*
- (l) Requirements for notification of spills, potential problems to the POTW including slug loadings, upsets or violations;*
- (m) Requirements for installation, operation and maintenance of pollution control equipment;*
- (n) Requirements to develop and implement spill and slug control plans;*
- (o) Other conditions as deemed appropriate by the POTW to ensure compliance with this ordinance, State and Federal pretreatment standards and requirements;*

- (p) *Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;*
- (q) *Statement of non-transferability;*
- (r) *Conditions for modifications or revocation of permit.*

5.6 Permit Duration

All Wastewater Discharge Permits or Waivers 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.

5.7 Limitations on Permit Transfer

Wastewater Discharge Permits or Waivers 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 City of AuGres.

5.8 Baseline Report (for categorical dischargers only)

- (a) *Industrial Users subject to National Categorical Pretreatment Standards shall submit Baseline Reports to the POTW in a form prescribed and furnished by the POTW.*
- (b) *Within 180 days after the effective date of a National Categorical Pretreatment Standard, or 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 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 (SIC) 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, 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 infeasible. 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 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 wastestream formula of section 403.6(e) 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 an 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 National Categorical Pretreatment Standard has been modified by a removal allowance (40 CFR Section 403.7) or the combined waste stream formula (40 CFR Section 403.15), at the time the Industrial User submits a Baseline Report the information required in Section 5.8(d)(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 provide as a response to Section 5.8(d)(6) and (7) and submit them to the POTW within 60 days after the modified limit is approved.
- (8) The following conditions shall apply to any schedule submitted in response to Section 5.8(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 contract for major components, commencing construction, completing construction, etc.).
- (b) No increment referred to in Section 5.8(8)(A) shall exceed nine months.
- (c) 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 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 months elapse between such progress reports to the POTW.
- (9) Such other information as may be reasonably requested by the POTW.

5.9 Compliance With Categorical Pretreatment Standards Report

Within 90 days following the date for final compliance by the Discharger with applicable Pretreatment Standards set forth in this Ordinance or 90 days following commencement of the introduction of wastewater into the POTW by a New Source, any Discharger subject to this Ordinance shall submit to the City of AuGres a report indicating *the results of sampling and analysis identifying the nature and concentration of all prohibited or regulated substances contained in its discharge, and the measured average and maximum daily flow in gallons per day.* 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.

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 90 days), New Sources must meet all applicable Pretreatment Standards.

This statement shall be signed as follows:

- (a) By a responsible corporate officer, if the Industrial User submitting this report is a corporation.
- (b) By a general partner or proprietor if the Industrial User submitting this report is a partnership or sole proprietorship respectively.
- (c) By a duly authorized representative of the individual designated in paragraphs (a) or (b) above if:
 - (1) The authorization is made in writing by the individual stated above;
 - (2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
 - (3) The written authorization is submitted to the Control Authority.
- (d) If an authorization under paragraph (c) is no longer accurate because a different individual or position has responsibility for the overall operation of facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (c) must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

Any person signing the statement shall make 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 violation."

5.10 Compliance Schedule for meeting Categorical Pretreatment Standards

Where additional pretreatment, secondary containment 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, secondary containment, and/or implementation of additional operation and maintenance activities.

- (a) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment or secondary containment 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 Ordinance.
- (b) Under no circumstance shall the City of Au Gres permit a time increment for any single step directed toward compliance which exceeds nine (9) months.
- (c) No later than 14 days following each milestone date in the schedule and the final date for compliance, the Discharger shall submit a progress report to the City of Au Gres 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 City of Au Gres.

5.11 Periodic Compliance Reports

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 a New Source, after commencement of the discharge to the City of Au Gres shall submit to the City of Au Gres *during the months of June and December, unless required more frequently*, 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 six (6) month reporting period. Flows shall be reported on the basis of actual measurement; however, where cost or feasibility considerations justify, the City of AuGres may accept reports of average and maximum flows estimated by verifiable techniques. The City of AuGres for good cause when considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize the submission of said reports on months other than those specified above.

The frequency of monitoring by the Discharger shall, as a minimum, be as prescribed in the applicable Pretreatment Standard of this Ordinance. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto. 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 City of AuGres. *If an Industrial User monitors any pollutant more frequently than required by the City, the results must be included within the report. This statement shall be signed by an authorized representative of the Discharger as described in Section 5.9 of this Ordinance.*

If sampling performed by an Industrial User indicates a violation, the User shall notify the Authority within twenty four (24) hours of becoming aware of the violation. The User shall repeat the sampling and analysis and submit the results of the repeat analysis to the Authority within thirty (30) days after becoming aware of the violation unless the POTW samples the industrial users' discharge.

5.12 Noncategorical Industrial Users Reporting Requirements

Significant noncategorical industrial users shall submit a report to the Authority at least once every six (6) months (on dates specified by the Authority) including, but not limited to, a description of the nature, concentration, and flow of the pollutants required to be reported by the Authority. Reports shall be based on sampling and analysis performed in the period covered by the report. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto.

5.13 Notification of Potential Problems

All categorical and non-categorical Industrial Users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings.

5.14 Upset provisions

- (a) An Upset shall constitute an affirmative defense to an action brought for noncompliance with Pretreatment Standards if the following requirements are met.*
- (b) Conditions necessary for a demonstration of upset. An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:*
 - (1) An Upset occurred and the Industrial User can identify the cause(s) of the Upset;*

- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures.
- (3) The Industrial User has submitted the following information to the POTW and Control Authority within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided with five days):
 - (i) A description of the Discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the compliance is expected to continue;
 - (iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.
- (d) The Industrial User shall control production of all Discharges to the extent necessary to maintain compliance with Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

5.15 Notification of Changed Discharge

All industrial users shall promptly notify the POTW 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 industrial user has submitted initial notification of.

5.16 Notification of Bypass Operations

If an Industrial User knows in advance of the need of a bypass, the user shall submit prior notice to the Authority, if possible at least ten (10) days before the date of the bypass. If an unanticipated bypass that exceeds applicable Pretreatment Standards occurs, the Industrial User shall submit oral notice to the Authority within twenty four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be submitted to the Authority within five (5) days. The written submission shall contain:

- (a) Description of the bypass and its cause thereof, and the bypass's impact on a Discharger's compliance status.
- (b) 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
- (c) Steps taken or planned to reduce, eliminate or prevent reoccurrence of a bypass.

5.17 Notification of Hazardous Waste Discharge

- (a) *Within 180 days of the effective date of this Rule, or no later than 180 days after a substance, which if otherwise disposed of, would be a hazardous waste under 40 CFR part 261, is discharged into the POTW, the Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing. Such notification shall include, but not limited to;*
 - (1) *The name of the hazardous waste;*
 - (2) *The EPA hazardous waste number;*
 - (3) *The type of discharge: continuous, batch, or other; and*
 - (4) *A certification that the user has a program in place to reduce the volume of toxicity of hazardous wastes generated to the degree it has determined to be economically practical.*
- (b) *If more than 100 Kilograms of such waste per calender month is discharged to the POTW, in addition to the information submitted in 5.17(a), the notification shall include:*
 - (1) *An identification of the hazardous constituents contain in the waste;*
 - (2) *An estimate of the mass and concentration of such constituents in the wastestream during that calender month; and*
 - (3) *An estimate of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.*
- (c) *In the case of any new regulations identifying additional characteristics of hazardous wastes or listing any additional substances as a hazardous waste, the Industrial User shall notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.*
- (d) *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 waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one time notification.*

5.18 Monitoring Facilities

Each Discharger shall, when determined as necessary by the City of AuGres, 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 City of AuGres. 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 City of AuGres 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.

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 120 days of receipt of a Permit by an existing discharger and prior to initiation of operations by a new discharger.

5.19 Inspection and Sampling

The City of AuGres may inspect the monitoring facilities of any Discharger to determine compliance with the requirements of this Ordinance. The Discharger shall allow the Authority, the Department of Natural Resources, or their representatives, upon presentation of credentials of identification, to enter the premises of the Discharger at all reasonable hours, for the purposes of inspection, sampling, records examination, or records copying. The Authority, Department of Natural Resources, or their representatives, shall have the right to set up on the Discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations.

5.20 Annual Report

No later than one (1) year after approval of the POTW pretreatment program and annually thereafter, the POTW shall provide the Authority with a report that briefly describes the POTW's program activities. The report shall include at a minimum:

- (a) An updated list of POTW's Industrial Users, including names and addresses. This list shall identify which Users are subject to Categorical Pretreatment Standards and which Standards are applicable to each Industrial User.*
- (b) A summary of the status of Industrial User compliance over the reporting period.*
- (c) A summary of compliance and enforcement activities conducted during the reporting period.*
- (d) Any other relevant information requested.*

5.21 Confidential Information

Information and data furnished to the City of AuGres 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 City of AuGres 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 any 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 City of AuGres as confidential, shall not be transmitted to any governmental agency or the general public by the City of AuGres, until and unless a ten-day notification is given to the Discharger.

SECTION 6

ENFORCEMENT

6.1 Emergency Suspension of Service and Discharge Permits

The City of AuGres may for good cause shown suspend the wastewater treatment service, the water supply service, electrical service, and/or the Wastewater Discharge Permit of a Discharger when it appears to the City of AuGres that an actual or threatened discharge presents or threatens: a violation of the NPDES; an imminent or substantial danger to the health or welfare of persons; an adverse impact on the environment; interference with the operation of the POTW; violation of any pretreatment limits imposed by this Ordinance or violation of any Wastewater Discharge Permit issued pursuant to this Ordinance. Any Discharger notified of the suspension of the City of AuGres wastewater treatment service, the water supply service, the electrical service, and/or the Discharger's Wastewater Discharge Permit shall within a period of time, as determined by the Authority,* cease all discharges, or be subject to utility cutoff or sewer blockage by the Authority. In the event of failure of the Discharger to comply voluntarily with the suspension order within the specified time, the City of AuGres shall notify the Department of Natural Resources and commence judicial proceedings immediately thereafter to compel the Discharger's compliance with such order. The City of AuGres shall reinstate the Wastewater Discharge Permit 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.

*It is the intent of this Section of the Ordinance to authorize the City of AuGres to order in person, or by signed document, the immediate, but orderly shutdown of any operation, discharge, or facility, or any part thereof, for good cause shown. Orderly shut down means consideration is to be given to protection of human safety and property of both the City and the Discharger. It does mean that the responsible person for an offending discharge will immediately initiate discussion with the Authority and will initiate the orderly actions required to stop the offending discharge and not wait for the next shift, weekend, or other convenient time. Orderly shutdown recognizes that consideration is to be given to the discharger for protection of human safety and for protection of equipment or property. For example, if the offending discharge source can be isolated, only that part of a facility need be shutdown. A discharge may need to be continued from a furnace or reaction vessel during cool down to prevent injuries or damage. Reduced flows may be allowed, for example, to provide fire protection, refrigeration to protect food inventories, or to provide heat during the winter. Such consideration is not to be construed to relieve the discharger of any liability for damages caused before or during the orderly shutdown period.

6.2 Notification of Violation

Whenever the POTW finds that any Discharger has violated or is violating this Ordinance, or a wastewater permit or order issued hereunder, the Superintendent or his agent may serve upon said user written notice of the violation. Within 10 days of the receipt date of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Superintendent. Submission of this plan in no way relieves the user of liability for any violation occurring before or after receipt of the Notice of Violation.

6.3 Consent Orders

The Superintendent is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the industrial user responsible for the noncompliance. Such orders will include compliance schedules, stipulated fines or remedial actions, and signatures of the superintendent and industrial representatives.

6.4 Show Cause Order

The Superintendent may order any user which causes or contributes to violation of this Ordinance, wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be served on any days prior to the hearing. Such notice may be served on any principal executive, general partner or corporate office. Whether or not a duly notified industrial user appears as noticed, enforcement action may be pursued as appropriate.

6.5 Compliance Order

When the Superintendent finds that an industrial user has violated or continues to violate the ordinance or a permit or order issued hereunder, he may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated, and compliance is achieved. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

6.6 Cease and Desist Orders

When the Superintendent finds that an industrial user has violated or continues to violate this Ordinance or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all illegal or authorized discharges immediately.

- (a) In an emergency, the order to cease and desist may be given by telephone.

- (b) In nonemergency situations, the cease and desist order may be used to suspend or permanently revoke industrial wastewater discharge permits.
- (c) The cease and desist order may order the industrial user to take such appropriate remedial or preventative action as may need be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

6.7 Administrative Fines

Notwithstanding any other section of this Ordinance, any user who is found to have violated any provision of this Ordinance, or permits and orders issued hereunder shall be fined in an amount not to exceed (the maximum allowable under State law, e.g. \$1,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinctive violation. Such assessments may be added to the user's next scheduled sewer service charge and the Superintendent shall have such other collection remedies as he has to collect other service charges. Unpaid charges, fines and penalties shall constitute a lien against the industrial user's property. Industrial users desiring to dispute such fines must file a request for the Superintendent to reconsider the fine within 10 days of being notified of the fine. Where the Superintendent believes a request has merit, he shall convene a hearing on the matter within 15 days of receiving the request from the industrial user.

6.8 Emergency Suspension

- (a) The Superintendent may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.
- (b) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Section 6.10 are initiated against the user.
- (c) An industrial user which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in paragraph (b) above.

6.9 Termination of Permit

Significant industrial users proposing to discharge into the POTW, must first obtain a wastewater discharge permit from the Control Authority. Any user who violates the following conditions of this Ordinance or a wastewater discharge permit or order, or any applicable State or Federal law, is subject to permit termination:

- (a) Violation of permit conditions.
- (b) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (c) Failure to report significant changes in operation or wastewater constituents and characteristics.
- (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Section 6.4 of this Ordinance why the proposed action should not be taken.

6.10 Judicial Proceedings

Following the entry of any order by the City Council with respect to the conduct of a Discharger contrary to the provision of this Ordinance hereof, the Attorney for the City of Augres may, following the authorization of such action by the City Council commence an action for appropriate legal and/or equitable relief in the appropriate court.

(a) *Injunctive Relief*

Whenever an industrial user has violated or continues to violate the provisions of this Ordinance or permit or order issued hereunder, the Superintendent, through council may petition the Court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the industrial user.

6.11 Annual Publication of Industrial Users in Significant Noncompliance

The Superintendent shall publish, at least annually in the largest daily newspaper circulated in the service area, a description of those industrial users which are found to be in significant noncompliance, as defined in Section 2(s) of this Ordinance, with any provisions of this Ordinance or any permit or order issued hereunder during the period since the previous publication.

6.12 Right of Appeal

Any Discharger or any interested party shall have the right to request in writing an interpretation of ruling by the Authority on any matter covered by this Ordinance and shall be entitled to a prompt written reply. In the event that such inquiry is by a Discharger and deals with matters of performance or compliance with this Ordinance or deals with a Wastewater Discharge Permit issued pursuant hereto for which enforcement activity relating to an alleged violation is the subject, receipt of a Discharger's request shall stay all enforcement proceedings pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this Ordinance may be taken in accordance with local or state law.

SECTION 7

PENALTIES

7.1 Civil Penalties

Any Discharger who has violated or continues to violate this Ordinance or an Order of the City Council or who has failed to comply with any provision of this Ordinance, and the regulations or rules of the City of AuGres or orders of any court of competent jurisdiction (or permits issued hereunder), may be subjected to the imposition of a civil penalty of *not more than (maximum allowable under State law, e.g., \$10,000 but at least \$1,000.00)*, per day for each day the violation continues and a penalty of double any economic gain made by continuing operations during a violation.

7.2 Recovery of Costs Incurred by the Municipality

Any Discharger violating any of the provision of this Ordinance, or who discharges or causes a discharge producing a deposit or obstruction, or causes damage to or impairs the City of AuGres storm water or wastewater disposal system shall be liable to the City of AuGres for any expense, loss, or damage caused by such violation or discharge. The City of AuGres shall bill the Discharger for the costs incurred by the City of AuGres for any supervision, investigation, sampling, administration, cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assess costs shall constitute a violation of this Ordinance enforceable under the provisions and/or Section 6 of this Ordinance. In addition to the foregoing, the charges which are made pursuant to this ordinance are hereby made a lien on all premises serviced thereby. In case any bill, together with all penalties thereon, shall not be paid within six (6) months of the date on which said bill is due and payable, the delinquent bill and all penalties thereon shall be a lien on the premises served. The City Assessor shall then place such charges on the next general tax roll and the same shall be collected in the same in all respects as provided by law for the collection of taxes by the City.

7.3 Criminal Prosecution

(a) *Violations - General*

Any industrial user who willfully or negligently violates any provision of this Ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$1,000 per violation per day or imprisonment for not more than one year or both.

In the event of a second conviction, the user shall be punishable by a fine not to exceed \$3,000.00 per violation per day or imprisonment for not more than three years or both.

(b) Falsifying Information

Any person who knowingly makes any false statement, representation, or certification in any application, record, 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 Ordinance, shall, upon conviction be punished by the imposition of a civil penalty of not more than *One Thousand (\$1,000.00)* Dollars per violation per day or by imprisonment for not more than one year or by both.*

* NOTE: Must comply with local and/or state statutes.

SECTION 8

RECORDS RETENTION

8.1 Retaining Records

All Dischargers subject to this Ordinance shall retain and preserve for no less than three (3) years, any record, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses 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 Authority pursuant hereto shall be routine 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.

SECTION 9

SEVERABILITY

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

SECTION 10

CONFLICT

- 10.1 All other ordinances and part of other ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.

Adopted the 2nd day of April, 1992 by the Council of the City of Au Gres, State of Michigan.

This ordinance shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

CITY OF AU GRES

BY:

LaVern Dittenber
LaVern Dittenber, Mayor

BY:

Mary Gressinger
Mary Gressinger, City Clerk



**CITY OF AU GRES
ORDINANCE NO. 36**

An Ordinance amending Section 3.2.5 of City Ordinance number 36.

The City of Au Gres ordains: That paragraph (a) "Supplementary Limitations" be changed as follows:

- (a) No discharger shall discharge wastewater containing detectable concentrations of the following enumerated materials, except under permit from the authority.

Pollutant table and units of measurement in (MAIL) (lbs/day): Arsenic .448; Cadmium .281; Chromium 9.987; Copper .630; Cyanide (amendable) .0805; Lead .165; Mercury .0000; Nickel .96; Silver .0000; Zinc 4.91.

No discharger shall discharge wastewater containing pollutants above the level as authorized in their individual permit.

Individual Permit Limits will be determined on a case by case basis. The City has developed a procedure to determine specific limits per each industrial user.

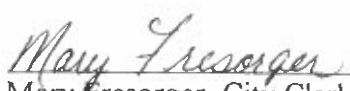
This Ordinance supersedes all limits and language of Ordinance No. 36 and shall be effect upon publication.

LaVern Dittenber, Mayor

Mary Fresorger, City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of Ordinance No. 36 duly adopted by the City of AuGres at a Regular Meeting of the City Council held on the 3rd day of July, 1997.



Mary Fresorger, City Clerk

