Chapter 28

WATER, SEWERS AND SEWAGE DISPOSAL*

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* **Charter References:** Authority of city to use and control streams and water-courses, § 2.2; city authorized to own and operate water and sewer system, § 16.1; city manager to manage and supervise all city utilities, and to have charge of construction and repair of sewers, § 8.2.

Constitution reference--Authority of city to own and operate water and sewage disposal facilities, Art. VII, § 24.

Cross References: Buildings and building regulations, Ch. 5; garbage, refuse and litter, Ch. 10; housing code, Ch. 12; public improvements, Ch. 20; rates, charges and fees, Ch. 21; streets and sidewalks, Ch. 22; water and sewer system in subdivisions, § 23-196; subdivisions, Ch. 23; stormwater runoff regulation and control, Ch. 29.

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ARTICLE I.

IN GENERAL

Sec. 28-1. Extending water, sewer service beyond corporate limits.

It shall be unlawful for any person who purchases water from the city, or is serviced by city sewer mains, to extend water or sewer service to facilities located outside of the corporate limits of the city without the express approval of the city council. The superintendent of water shall enforce this section and shall be authorized to make application in the proper court for writ or injunction restraining any person from violating this section.

Charter References: City authorized to sell and deliver water and sewer service outside corporate limits, § 16.1.

Constitution reference--Authority of city to deliver water and provide sewage disposal service outside of corporate limits, Art. VII, § 24.

Sec. 28-2. Findings--Water.

(a) *Necessity for potable water.* The city council has previously found, and currently reaffirms that the businesses, industries, governmental and charitable agencies and residents located in the city need to have potable and otherwise usable water.

(b) *Availability of potable water.* The city council further has previously found, and currently reaffirms, that the supply of potable water available from private wells within the city is insufficient to assure that all businesses, industries, governmental and charitable agencies, and residents will have sufficient potable water available for their use and other water necessary for industrial and fire prevention and control unless the city offers water to all properties located within the city.

(c) *Method for measuring use--water supply services.* Based on advice of its engineers, the city council has previously found, and currently reaffirms, that the most precise method, given available technology, of measuring the use of the water supply from the system by any user is by a meter or meters installed and controlled by the city.

(d) *Continuation of service.* The city council has previously found, and further currently reaffirms that, in order to provide and continue to provide clean potable and other usable water to all customers of the system, in quantities necessary for all varieties of use, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the system.

(e) *Purpose of charges.* The charges and fees for the use of and connection to the system are hereby established for the purpose of recovering the cost of acquisition, construction, reconstruction, maintenance, repair, and operation of the system and to comply with federal and state safe drinking water acts and related regulations, to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide a fund for reasonable and necessary improvements to the system, to provide a fund for equipment replacement and to provide for such other funds as are necessary to meet contractual obligations of the city. Such charges and fees shall be made in accordance with the purposes herein described as well as the following:

(1) All premises connected directly or indirectly to the system, except as hereinafter provided, shall be charged and shall make payments to the city in amounts computed on the basis of this chapter.

(2) The charges, rates and fees for water service by the system are established herein to adequately provide for bond requirements and to ensure that the system does not operate at a deficit.

(3) The system staff or designated parties shall periodically review the charges, rates, fees, rules and regulations of the system, which review shall be completed not less than one (1) time per fiscal year. Results of the review shall be reported to the city council with recommendations for any adjustments.

(4) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.

(f) *Proportionality, fairness, and benefits of charges, rates and fees.* The city council has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the system is to charge each user, based in all cases on amount of use, for the costs of: (i) retiring debt secured by the net revenues of the system issued to pay for improvements and replacements to the system; (ii) ongoing repair, replacement and improvement and budgeted as part of the annual costs of the system; and (iii) operation, administration and maintenance costs of the system.

The city has investigated several methods of apportioning the costs of the water service provided by the system. Based on its investigation and on the advice of its engineers, the city council has previously found, and currently reaffirms, that to ensure the stability and viability of the system for the benefit of its users, the fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the system is to charge each user: (i) a connection fee and a capital charge for water service when such user's property is first connected to the system; (ii) a commodity rate for the use of water; (iii) a readiness-to-serve charge; and (iv) other charges and costs for services which are equivalent to the cost of providing such services. The city council has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the system among the users of the system and that the commodity rate and the readiness-to-serve charges each provide actual benefits to such users in the form of ready access to water service that would be unavailable if such charges were not charged.

In addition to the findings set forth above, the city council has previously found and currently reaffirms that the capital charge reflects the depreciated capital costs of the system, previously paid by the city and the system, less grants, attributable to each new user and that the opportunity to connect to the system provides actual benefits to each new user equal to or greater than the amount of such charges.

Furthermore, the city council has previously found and currently reaffirms that the charges imposed by the system are sufficient to meet the short-term capital improvement needs of the system.

(g) *Design life of improvements.* Based on the advice of its engineers, the city council has previously found and currently reaffirms that any improvements to or capital expenditures for the system paid for by rates and charges did not, at the time such improvements were constructed and financed, have an expected design life that would exceed the term of the respective bonds issued to finance such improvements or capital expenditures.

(h) *Charges for non-residents.*

<u>Contracts for water service.</u> The city has previously entered, and may continue to enter, into contracts with municipalities adjacent to the city, to provide service to users of the water supply system located in those municipalities. Rates and charges billed for use by the residents of those municipalities shall be in accordance with the applicable contract.

<u>Charges for service to customers outside city where no other contract compensates the city for indirect costs.</u> The city has previously found, and hereby ratifies and confirms, that the total direct and indirect costs of providing service to customers outside the city jurisdiction, where no other contract exists with the

governmental units where those customers are located, equals at least 1.75 times the rates and charges imposed for direct services and debt service cost to customers located in the city. Indirect costs include payment for capital improvements, extraordinary repairs and replacements for the water supply system benefiting all users of the system and paid for by customers served within the corporate limits of the city or the corporate limits of other municipalities which have entered into contracts with the city for such costs, funding depreciation of the improvements to the water supply system, and fire and police or other protection for the water supply system paid by city taxpayers or by the governmental units with which the city has contracts for water supply.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-3. Establishment of the water distribution system.

Based on the findings and for the purposes set forth in section 28-2, the city has previously established and hereby re-establishes the water distribution system, consisting of all water mains, pumping and storage facilities, pressure systems, wells, connections, service pipes, meters, and all other appurtenances to the system.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-4. Findings-Sewer.

(a) *Necessity for sewage disposal.* The city council has previously found, and currently reaffirms, that the use of septic tanks, privies, privy vaults, cesspools, or similar private sewage disposal facilities, may be deleterious to the health, safety and welfare of the businesses, industries, governmental and charitable agencies, and residents of the city and that the health, safety and welfare of the businesses, industries, governmental and charitable agencies and residents is enhanced by the creation of a public sewer system and wastewater treatment plant, with regulation by the city of pollutants and other harmful materials according to state and federal standards.

(b) *Method for measuring use--sewage disposal services.* Based on advice of its engineers, the city council has previously found, and currently reaffirms, that the most practical, cost effective and accurate method, given available technology, of measuring the use of the system's sewers by any user is by the meter or meters used to measure water usage.

(c) *Continuation of service.* The city council has previously found, and further currently reaffirms that, in order to provide and continue to provide for the safe and uninterrupted removal and treatment of sewage, pollutants and other harmful materials, it is necessary from time to time to install improvements, enlargements, extensions and repairs to the system's sewers and sewer service pipes.

(d) *Purpose of charges.* The charges and fees for the use of and connection to the system are hereby established for the purpose of recovering the cost of acquisition, construction, reconstruction, maintenance, repair, and operation of the system and to comply with federal and state safe drinking water acts and related regulations, to provide for the payment of principal of and interest on any bonds authorized to be issued as and when the same become due and payable, to create a bond and interest redemption fund therefor, to provide a fund for reasonable and necessary improvements to the system, to provide a fund for equipment replacement and to provide for such other funds as are necessary to meet contractual obligations of the city. Such charges and fees shall be made in accordance with the purposes herein described as well as the following:

(1) All premises connected directly or indirectly to the system, except as hereinafter provided, shall be charged and shall make payments to the city in amounts computed on the basis of this chapter.

(2) The charges, rates and fees for sewer service by the system are established herein to adequately provide for bond requirements and to ensure that the system does not operate at a deficit.

(3) The system staff or designated parties shall periodically review the charges, rates, fees, rules and regulations of the system, which review shall be completed not less than one (1) time per fiscal year. Results of the review shall be reported to the city council with recommendations for any adjustments.

(4) The charges, rates and fees shall be set so as to recover costs from users in reasonable proportion to the cost of serving those users.

(e) *Proportionality, fairness, and benefits of charges, rates and fees.* The city council has previously found and further currently reaffirms that the fairest and most reasonable method of providing for the operation, maintenance, repair, replacement and improvement of the system is to charge each user, based in all cases on amount of use, for the costs of: (i) retiring debt secured by the net revenues of the system issued to pay for improvements and replacements to the system; (ii) ongoing repair, replacement and improvement and budgeted as part of the annual costs of the system; and (iii) operation, administration and maintenance costs of the system.

The city has investigated several methods of apportioning the costs of the sewage disposal service provided by the system. Based on its investigation and on the advice of its engineers, the city council has previously found, and currently reaffirms, that to ensure the stability and viability of the system for the benefit of its users, the fairest and most accurate way to apportion the costs of operation, maintenance, replacement and improvement of the system is to charge each user: (i) a connection fee and a capital charge for sewer service when such user's property is first connected to the system; (ii) a commodity rate for the use of sewer services; (iii) a readiness-to-serve charge; and (iv) other charges and costs for services which are equivalent to the cost of providing such services. The city council has previously found, and currently reaffirms that the rates and charges currently in effect accurately apportion the fixed and variable costs of the system among the users of the system and that the commodity rate and the readiness-to-serve charges each provide actual benefits to such users in the form of ready access to sewer service that would be unavailable if such charges were not charged.

In addition to the findings set forth above, the city council has previously found and currently reaffirms that the capital charge reflects the depreciated capital costs of the system, previously paid by the city and the system, less grants, attributable to each new user and that the opportunity to connect to the system provides actual benefits to each new user equal to or greater than the amount of such charges.

Furthermore, the city council has previously found and currently reaffirms that the charges imposed by the system are sufficient to meet the short-term capital improvement needs of the system.

(f) *Design life of improvements.* Based on the advice of its engineers, the city council has previously found and currently reaffirms that any improvements to or capital expenditures for the system paid for by rates and charges did not, at the time such improvements were constructed and financed, have an expected design life that would exceed the term of the respective bonds issued to finance such improvements or capital expenditures.

(g) *Charges for non-residents.*

Contracts for sewage disposal services. The city has previously entered, and may continue to enter, into contracts with municipalities adjacent to the city to provide sewage disposal services in those municipalities. Rates and charges billed for use by the residents of those municipalities shall be in accordance with the applicable contract.

Charges for service to customers outside city where no other contract compensates the city for indirect costs. The city has previously found, and hereby ratifies and confirms, that the total direct and indirect costs of providing sewage disposal service to customers outside the city jurisdiction, where no other contract exists with the governmental units where those customers are located, equals at least 1.75 times the rates and charges imposed for direct services and debt service cost to customers located in the city. Indirect costs include payment for capital improvements, extraordinary repairs and replacements for the sewage disposal system benefiting all users of the system and paid for by customers served within the corporate limits of the city or the corporate limits of other municipalities which have entered into contracts with the city for such costs, funding depreciation of the improvements to the sewage disposal system, and fire and police or other protection for the sewage disposal system paid by city taxpayers or by the governmental units with which the city has contracts for sewage disposal services.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-5. Establishment of the sewage disposal system.

Based on the findings and for the purposes set forth in section 28-4, the city has previously established and hereby re-establishes the sewage disposal system, consisting of all sewers, interceptors, pipes, treatment facilities and all other appurtenances to the system.
(Ord. No. 1513, § 1, 7-23-01)

Secs. 28-6--28-11. Reserved.

ARTICLE II.

WATER

DIVISION 1.

GENERALLY

Sec. 28-12. Definitions.

When used in this article, the following terms shall be construed as defined in this section, unless a different definition shall be adopted for any division of this article:

Backflow. Any water entering the public water supply provided by the city due to a reversal of flow.

City treasurer. The duly appointed officer of the city, or his authorized representative.

Cross connection. A connection or arrangement of piping or appurtenances through which backflow could occur.

Domestic customer. An individual customer with his own service and external shutoff who is served water for domestic purposes only. This does not include a business, corporation, partnership, etc., which is using water or reselling water to renters or when more than one apartment, business, etc., is served from one meter.

Operation and maintenance. The labor, material, and other costs incurred by the performance of operation and maintenance of a water system.

Readiness-to-serve charge. A charge approximately equal to the proportional fixed costs of the city's water system attributable to each user.

Superintendent of water. That duly appointed officer of the city, or his authorized representative.

Water connection or *service.* A tap into a water main.

Water extension. That part of the consumer's water supply system extending from the end of the water connection into the premises served and ending at the city's water meter.

Water main. That portion of the water distribution system lying in the public right-of-way and of a size adequate to serve more than one (1) customer.
(Ord. No. 824, § 1, 8-27-73; Ord. No. 1012, § 1, 2-15-82; Ord. No. 1513, § 1, 7-23-01)

Sec. 28-13. Where mains are installed; grant of easement.

All water mains shall be installed in public rights-of-way. However, where it is deemed necessary by the water department that certain water mains be installed in private property, the property owner shall grant an easement to the city for the purposes of meter reading, inspection and maintenance of water mains.

Sec. 28-14. Structure to have individual connection.

Every dwelling, building or structure furnished city water shall have its individual water connection.

Sec. 28-15. Elimination of cross connections required; adoption of water supply cross connection rules.

Cross connections of the filtered and unfiltered public water systems provided by the city with any other water supply system shall not be permitted.

The city hereby adopts by reference the water supply cross connection rules of the Michigan Department of Public Health being 325.431 to R 325.440 of the Michigan Administrative Code.

It shall be the duty of the superintendent of water to cause inspections to be made of all properties served by the public water supply where cross connections are deemed possible. The frequency of inspections

and reinspections based on potential health hazards involved shall be as established by the superintendent of water and as approved by the Michigan Department of Public Health.

The superintendent of water shall have the right to enter at any reasonable time any property served by connection to public water system of the city for the purpose of inspecting the piping system or systems thereof for cross connections. On request, the owner, lessee or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system or systems on such property. The refusal of such information or refusal of access, when requested, shall be deemed prima facie evidence of the presence of cross connections.

The superintendent of water is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any cross connection or other violation of this section exists, and to take other precautionary measures deemed necessary to eliminate any danger of contamination of the public water supply system. Water service to such property shall not be restored until the water connection or cross connection has been eliminated.

Potable supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this section and by the State and City of Midland Plumbing Codes. Any water outlet which could be used for potable or domestic purposes and which is not supplied by the potable system must be labeled in a conspicuous manner as: "WATER UNSAFE FOR DRINKING."

This section does not supersede the State Plumbing Code or City of Midland Plumbing Code, that being Chapter 18 of the Midland Code of Ordinances, but shall be considered supplementary to them.
(Ord. No. 824, § 2, 8-27-73)

Sec. 28-16. Connection installation.

Water connections shall be installed upon the prepayment of the estimated cost of construction.

Sec. 28-17. Permission to construct extension.

Permission to construct a water extension shall be implied with the purchase of each water connection.

Sec. 28-18. No branches or connections allowed off extension.

There shall be no branches or connections off the extension pipe connecting the water supply main with the water meter.

Sec. 28-19. Structures and customers to have water meter and outside shutoff valve.

Every dwelling, building or structure furnished city water shall have its own water meter and outside shutoff valve. Every customer furnished city water shall have their own water meter and outside shutoff valve.
(Ord. No. 1012, § 1, 2-15-82)

Sec. 28-20. Place for meter installation; when city provides same; charges.

(a) Customers shall provide a suitable place for meter installation.

(b) In event of the failure or refusal of a customer to provide a suitable place, or if in the judgment of the water department damage may result to the meter through frost or other agency, the city may provide a suitable place for installation and charge the customer an additional fifty dollars ($50.00) or actual labor and material costs, whichever is greater. The amount of such charge may be assessed against the customer in the next ensuing quarter, and be collected in the same manner as other water charges.
(Ord. No. 1012, § 1, 2-15-82)

Sec. 28-21. Interfering, tampering with meters; ownership.

No person other than an authorized employee of the city shall break or injure the seal on, or change the location of, or alter or interfere in any way with any water meter. All meters are property of the city.
(Ord. No. 1120, § 1, 3-23-87)

Sec. 28-22. Expense of negligent injury to be borne by occupant of premises.

Whenever a water meter is injured because of any act or negligence on the part of the owner or occupant of the premises where such meter is installed, the expense of the city caused thereby shall be charged to and collected from such owner or occupant in the same manner as other water charges.
(Ord. No. 1012, § 1, 2-15-82)

Sec. 28-23. Who may turn on and off service.

No person, other than an authorized employee of the city, shall turn on or off any water service, except that a licensed plumber may turn on a water service for testing an extension system, after which the plumber shall immediately turn the water service off.

Sec. 28-24. Mayor's declaration of water emergency.

At such time as the mayor shall determine that water consumption within the city has or is about to exceed the supply available to the city for its uses on a continuing basis, he may declare that a water emergency exists.

Sec. 28-25. Water uses prohibited during water emergency.

When the mayor has declared that a water emergency exists, the use and withdrawal of water by any person from the city water distribution system for any of the following purposes is hereby prohibited:

(a) Watering of yards. The sprinkling, watering or irrigation of shrubbery, trees, lawns, grass, ground covers, plants, vines, gardens, vegetables, flowers and any other vegetation.

(b) Cleaning outdoor surfaces. The washing of sidewalks, driveways, filling station aprons, porches, patios and other outdoor hard surface areas.

(c) Swimming pools. Swimming and wading pools not employing a filter and recirculating system.

(d) Escape through defective plumbing. The escape of water through defective plumbing, which shall mean the knowing permission for defective plumbing to remain out of repair.

Sec. 28-26. Declaration of existence, termination of emergency.

When the mayor shall have declared that a water emergency exists, notice thereof shall be given by releasing such declaration to the official newspaper and to all radio stations maintaining studios within the city. Such notice shall advise of the time of commencement of such emergency and that such emergency shall continue until notice of termination is given by the mayor through the same media.

Sec. 28-27. Termination of emergency.

When the mayor shall determine that the conditions which caused the declaration of a water emergency no longer exists, he shall so declare and give notice of such determination as provided in section 28-26.

Sec. 28-28. Penalty for violation of water emergency regulations.

Any person who shall knowingly, during any water emergency, use or withdraw water from the city water distribution system for any of the purposes prohibited in section 28-25, shall be guilty of a misdemeanor, and shall be subject to a fine of not to exceed twenty-five dollars ($25.00) for each violation and, in addition, if he refuses to discontinue such violation, be subject to the discontinuance of water service during the continuance of such emergency.

Sec. 28-29. Rule making by council.

The city council may, by resolution, adopt such rules and regulations as it may deem necessary to administer the terms of this article.

Secs. 28-30--28-35. Reserved.

DIVISION 2.

FILTERED SERVICE AND EXTENSIONS

Sec. 28-36. Installation of service, extension to property line.

The water department shall, where a filtered water main is adjacent to the property of a customer, install water service and extension from the main to the customer's property line.

Sec. 28-37. City meters to be used.

Meters to be used in the installation of the filtered service and extension pursuant to section 28-36 shall be only those which are obtained from the water department.

Sec. 28-38. Cost of filtered service, extension and installation.

The cost of the installation of a filtered water service and extension shall be determined as follows:

(a) The installation from the main to the curb box, which shall be located on the street side of the sidewalk line, shall include the tapping of the main, the furnishing and installing of all necessary valves, pipe and fittings from the main to the curb box plus the cost of the meter and the meter fittings. The cost thereof, payable in advance, shall be according to the following schedule if the service is applied for between April 1 and November 30:

3/4" service $470.00

1 " service 550.00

1 1/4" service 625.00

1 1/2" service 815.00

2 " service 975.00

(b) If the service installation is installed by customer request between December 1 and March 31, an additional charge of seventy-five dollars ($75.00) shall be added to the service connection fee.

(c) In addition to the service connection fee set forth in paragraph (a) above, a one-time water system capital charge shall be paid in advance of connection in accord with the following schedule:

3/4" service . . . . . $ 800.00

1 " service 1,040.00

1 1/4" service 1,200.00

1 1/2" service 1,280.00

2 " service 2,080.00

3 " service 8,000.00

4 " service 10,400.00

6 " service 15,200.00

8 " service 21,600.00
(Ord. No. 908, § 1, 7-25-77; Ord. No. 947, § 1, 6-18-79; Ord. No. 1012, § 1, 2-15-82; Ord. No. 1120, § 1, 3-23-87; Ord. No. 1271, § 1, 9-13-93; Ord. No. 1277, § 1, 9-20-93)

Sec. 28-39. Property not having previously paid for a water main.

For property which has not borne the expense of the construction of water mains, a water connection permit shall not be granted until a payment is made by the owner of said property at a rate equal to one-half (1/2) the cost of construction of an eight-inch water main, indexed to the year of construction using *The Engineering News Record*, "The Construction Cost Index," and calculated by the city engineer on a front foot basis, is paid. The property owner may choose to pay this fee in five (5) installments, the first installment being due at the time of connection, and the deferred installments being due annually thereafter, with interest accumulating at the rate of the most recent rate established by the city council for annual payments of special assessments. In such event, this charge shall constitute a lien on the premises subject thereto, and that amount shall also be a debt to the person to whom assessed until paid.

Annually, the city engineer shall notify the director of fiscal services of any such charges due. The director of fiscal services shall forward a statement of the total charges assessed on each parcel of property to the owner, as shown by the last current assessment or tax roll, and said assessment shall be payable to the city treasurer within thirty (30) days from the date said statement was forwarded. If not paid within the prescribed thirty-day period, such statement shall be filed by the director of fiscal services with the city assessor and shall thereupon be assessed against the land in question and become a lien on such property, in accordance with the City of Midland charter. The amount so charged may be discharged at any time by the payment of the amount specified in the statement, together with the accrued interest compiled from the time of filing said statement with the city assessor. An additional charge, payable at the time of connection, shall be made for the connection line from the water main to the property line of the property to be served, as provided for in section 28-38.
(Ord. No. 908, § 2, 7-25-77; Ord. No. 1258, § 1, 3-15-93; Ord. No. 1326, § 1, 8-28-95)

Secs. 28-40--28-44. Reserved.

DIVISION 3.

RATES, CHARGES, BILLING*

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* **Editors Note:** Ord. No. 1513, § 1, adopted July 23, 2001, amended div. 3 in its entirety, in effect repealing and reenacting div. 3 to read as herein set out. Formerly, div. 3 pertained to unfiltered service and extensions and derived from original codification.

Sec. 28-45. City may establish water rates.

The city may classify the users of water service according to the quantities and types of water supplied, and charge such rates to users in each class in proportion to the costs of providing water service to, and according to the benefits received by, such classes of users.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-46. Reserved.

Sec. 28-47. Meters to be used to measure quantity; remote type meters required.

Where water rates are based on quantities supplied, the quantities shall be determined and measured by city water meters. The superintendent of water may require installation of remote type reading meters if the

water department is unable to enter a structure to read a customer's water meter, whenever meter replacement is required and for new water service installations.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-48. City may estimate consumption when meter fails or when unable to read meter.

In the event that a water meter shall fail to register properly, or the city is unable to gain entry to read the meter, the city is empowered to estimate the quantity of water used on the basis of information available and bill accordingly.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-49. Right of entry for inspection, meter reading.

All water service contracts entered into shall give the city's authorized agent authority to enter upon the consumer's premises for the purpose of reading or inspecting a water meter or any piping connected with the consumer's water system.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-50. Deposit for filtered water service; refund.

(a) *Deposit required.* Before any premises may be served with water or sewerage service, a deposit of not less than thirty-five dollars ($35.00) and not more than the amount of an estimated bill for six (6) months' filtered water and sewerage usage for the applicable service, as estimated by the water department, shall be required from all applicants for service when the applicant is not the owner of the premises where the service is provided.

(b) *Interest on security deposits.* The water department will apply interest to the deposit accounts of all users with security deposits over fifty dollars ($50.00). For deposits exceeding fifty dollars ($50.00), interest at the rate of four (4) percent per annum shall be credited to the customer's account, said interest to be computed annually on all sums that have remained on deposit for six (6) months and to be credited semiannually. Accrued interest due shall be paid at the time the deposit is refunded.

(c) Notification necessary to waive lien. When a tenant is responsible for payment of water and/or sewer bills and a lease has been executed containing a provision that the lessor not be liable for water and/or sewer charges, then it shall be the responsibility of the lessor to so notify the water department office with an appropriate affidavit signed by both parties requesting a waiver or lien.

The affidavit must state: "Tenant is totally responsible for all charges for water and/or sewer service furnished to the said premises by the City of Midland. Tenant understands that no service shall be commenced to the above address until there has been deposited with the city a sum sufficient to cover twice the average quarterly bill with a one hundred ten dollars ($110.00) minimum, and a copy of the lease including the affidavit furnished to the city. Tenant further understands that payment of charges for water and/or sewer service may be enforced by discontinuing the services to the premises." The affidavit shall state the expiration date of the lease. Upon receipt of such notification, the city will waive its lien pursuant to Public Act 178 of the Public Acts of the State of Michigan, of 1939, as amended, and the water and sewer bills to the lessee within the term of the lease shall not be a lien against the property. Upon expiration of the lease, a new affidavit must be submitted to retain the

lien waiver. Without such notification, water and/or sewer bills will be a lien against the property served regardless of any lease provisions between the parties. The water and/or sewer bills shall be in the name of the premises except as provided by this section concerning tenants.

(d) *Security deposits in lieu of lien.* When the water department has received and approved a request from the property owner for a waiver of lien, then a cash deposit will be required of the lessee as security for payment of all water and/or sewer charges. Said cash deposit shall be equal to two (2) times the estimated quarterly bill for water and/or sewer charges, but in no case, less than one hundred ten dollars ($110.00).

Sec. 28-51. When two customers are served by one connection.

In the event one water connection serves two (2) or more customers, the water meter or meters shall be in the name of one individual or organized group of individuals contracting with the city for service, and such individual or organized group of individuals shall be responsible for all water service charges.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-52. Filtered water rate generally.

The city's methodology of adjusting water rates shall be in accordance with the cost of service water and sewer rate study prepared by the city's consultant, presented to and approved by the council in 1993 and shall be in conformity with the findings set forth in section 28-2 of this chapter.

All filtered water bills shall be calculated according to the following:

(1) For each one thousand (1,000) gallons used per quarter: $1.48

(2) In addition to the rate set forth in this section for the use of water, there shall be a readiness-to-serve charge per quarter on each metered service as follows:

Metered Service	Amount
5/8" – 3/4”	$36.48
1"	$47.42
1- 1/2"	$58.37
2"	$94.85
3"	$364.80
4"	$474.24
6"	$693.12
8"	$984.96

(3) Gross rates shall be ten (10) percent greater than the above schedule of rates and shall be charged for water service paid for after the date shown on the bills.

(Ord. No. 1513, § 1, 7-23-01; Ord. No. 1581, § 1, 6-28-04; Ord. No. 1619, § 1, 6-26-06; Ord. No. 1635, § 1, 06-25-07 ; Ord. No. 1659, § 1, 06-23-08; Ord. No. 1681, § 1, 06-22-09; Ord. No. 1707, § 1, 06-28-10; Ord. No. 1716, § 1, 06-27-11; Ord. No. 1731, § 1, 06-25-12; Ord. No. 1748, § 1, 06-24-13; Ord. No. 1758, § 1, 06-23-14; Ord. No. 1775, § 1, 06-22-15; Ord. No. 1787, § 1, 06-27-16)

Sec. 28-53. Rate for filtered water used in construction when meter cannot be used.

(a) For construction work where, due to weather or other conditions, it is impracticable to furnish a temporary meter connection, a minimum charge of forty dollars ($40.00) per service connection shall be made. Water used should be metered or may be estimated by the water department, and the charges shall be one dollar and ten cents ($1.10) per one thousand (1,000) gallons for water used over the first one thousand (1,000) gallons.

(b) Where it is determined by the water department that it is desirable to allow temporary water use from a fire hydrant, permission may be given in writing by the water department. A forty dollar ($40.00) minimum charge per service connection shall be paid in advance; and an additional charge of one dollar and ten cents ($1.10) per one thousand (1,000) gallons used, either metered or estimated by the water department, shall be made if the amount of water to be used is estimated to be greater than one thousand (1,000) gallons.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-54. Use of water from fire hydrant without permission.

It shall be unlawful for any person to use water from a fire hydrant without obtaining permission from the superintendent of water or his designated representative.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-55. Filtered water used for private fire defense.

For water service for private fire defense to private consumers through service connections, filtered water rates shall be determined in accordance with the size of the fire connection as follows:

6" connections, per quarter . . . . . $ 41.50

8" connections, per quarter 66.40
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-56. Quarterly assessment, collection.

Charges for filtered water consumed inside and outside the city shall be assessed and collected in four (4) quarterly periods, or more often if circumstances require.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-57. Reading, billing date, remote reading registers.

(a) Water meters shall be read as nearly as possible within twenty (20) days of the end of each quarter, and the water charge shall be billed to the customers within forty (40) days of the end of each quarter.

(b) The customer may at his option, request to have a water meter with a remote reading register installed so that the meter may be read from outside the building. The superintendent of water may require a remote reading meter register for new services, or whenever meter replacement is required, or when unable to gain entry to read the meter.

(c) In the event of a discrepancy between the readings on the water meter and the remote register, the consumption as shown on the water meter shall be used in calculating the billing or as otherwise provided for in this chapter.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-58. Computation of monthly billing.

Water service billed monthly shall be computed so that the total cost per quarter shall be the same as if billed quarterly.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-59. Payment of bills, charges, etc.

Payment of all water and sewer bills, charges, fees and deposits for water service shall be made to the city treasurer.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-60. When water bills are due and payable.

All water bills shall be due and payable at the office of the city treasurer in the city hall on or before the date shown on the bill which shall be not less than fifty (50) nor more than sixty (60) days after the end of the quarter for which such bills are issued.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-61. When water service may be discontinued.

The city may discontinue water service for failure to comply with all ordinances, rules or regulations of the city relating to water use or for nonpayment of water rates and charges. When a water bill remains unpaid for more than thirty (30) days after its due date, water services to the premises shall be discontinued until such account is paid.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-62. Enforcement of collection of water charges by assumpsit.

The payment of the charges for services and for filtered water supplied may be enforced by an action of assumpsit instituted in the name of the city against such user.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-63. Unpaid filtered water charges to be a lien; collection.

By Section 21 of Act 94, Michigan Public Acts of 1933, as amended, bills for water service shall constitute a lien on the premises affected. The city shall certify those rates and charges delinquent for six (6) months or more to the city tax assessing officer, who shall enter the amount of the delinquent rates and charges on the tax roll against the premises to which the service was rendered, and shall collect the rates and charges

and enforce the lien in the same manner as provided for the collection of ad valorem property taxes assessed upon the same roll, or as otherwise provided by this chapter.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-64. Reinstating water service; charge.

Water service which has been discontinued for the nonpayment of water bills or charges due the city shall not be reinstated except upon the prepayment of a service charge of twelve dollars and fifty cents ($12.50). There shall be an additional charge for reinstating service during other than normal working hours, based on the costs incurred. The service charge shall be added to the water bill.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-65. City to assume no responsibility for leaks in service beyond the meter.

The city will assume no responsibility for excessive water bills caused by a leak in the water service beyond the water meter.
(Ord. No. 1513, § 1, 7-23-01)

Sec. 28-66. City to pay for water.

The city shall pay, out of the appropriate general funds, the reasonable cost and value of the filtered water services rendered to, and the water supplied to, the city by the city water system, on the basis of the schedule of rates and amounts of water used by the several city departments.
(Ord. No. 1513, § 1, 7-23-01)

DIVISION 4.

RESERVED*

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* **Editors Note:** Ord. No. 1513, § 2, adopted July 23, 2001, repealed div. 4, §§ 28-62--28-86, in its entirety. Formerly, div. 4 pertained to rates, charges, and billing, and derived from Ord. No. 786, § 1, 2, adopted January 10, 1972; Ord. No. 863, §§ 1--5, adopted June 2, 1975; Ord. No. 933, §§ 1--5, adopted June 12, 1978; Ord. No. 947, § 2, adopted June 18, 1979; Ord. No. 964, § 1, adopted November 9, 1979; Ord. No. 1012, §§ 1, 2, adopted February 15, 1982; Ord. No. 1099, § 1, adopted February 24, 1986; Ord. No. 1120, § 1, adopted March 23, 1987; Ord. No. 1183, §§ 1--4, adopted October 30, 1989; Ord. No. 1201, § 1, adopted October 29, 1990; Ord. No. 1210, § 1, adopted February 18, 1991; Ord. No. 1225, § 1, adopted August 26, 1991; Ord. No. 1271, §§ 2, 3, adopted September 13, 1993; Ord. No. 1296, § 1, adopted June 27, 1994; Ord. No. 1320, § 1, adopted June 12, 1995; Ord. No. 1352, § 1, adopted June 24, 1996; Ord. No. 1381, § 1, adopted June 16, 1997; Ord. No. 1416, § 1, adopted June 22, 1998; Ord. No. 1453, § 1, adopted June 21, 1999.

Secs. 28-67--28-97. Reserved.

ARTICLE III.

SEWERS AND SEWAGE DISPOSAL*

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* **Editors Note:** Ord. No. 1087, §§ 1, 2, adopted June 3, 1985, repealed former Art. III, pertaining to sewers and sewage disposal, and enacted in lieu thereof a new Art. II as herein set out. Former Art. III, was derived from the following ordinances:

Ord. No.	Section	Date	Ord. No.	Section	Date
786	3, 4	1-10-72	984	1	9-8-80
863	6, 7	6-2-75	1012	1	2-15-82
933	6	6-12-78	1056	1	11-21-83
947	3	6-18-79	1059	1	12-19-83
964	2	11-9-79			

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DIVISION 1.

GENERALLY

Sec. 28-98. Purpose and policy.

This article of the Code sets forth uniform requirements for direct and indirect discharges into the wastewater collection and treatment system of the City of Midland.

The objectives of this article are:

(1) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the municipal wastewater system which will pass through inadequately treated to the receiving waters or otherwise be incompatible with the collection and/or treatment facilities;

(3) To enable the recycling and reclaiming of wastewaters and sludges from the system;

(4) To provide for equitable distribution of the costs incurred by the municipal wastewater system; and

(5) To generally govern the use of the City of Midland Sewerage System.

This article provides for the regulation of direct and indirect discharges to the municipal wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, requires user reporting, and provides for the setting of fees for the equitable distribution of costs for operation and maintenance of the POTW system and associated programs thereof.

This article shall apply to the City of Midland and to persons outside the city who are, by contract or agreement with the city, users of the city POTW. Except as otherwise provided herein, the director of utilities of the city shall administer, implement and enforce the provisions of this article.

It is the intent of this article and the divisions therein to protect and ensure the efficient operation of the POTW, and assure, to the highest degree possible, the public health, safety and welfare of the citizens of the City of Midland. It is not the intent of this article to conflict with any federal or state laws presently in force,

and in the event any division or section of this article is determined to be legally unsupportable or in conflict with any laws and regulations of the federal or state governments or any administrative agency thereof, the remainder of this article shall not be deemed to be void.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-99. Sewer district encompassing city established.

A compulsory sewer district which shall include the entire City of Midland is hereby established.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-100. Extending sewer service beyond corporate limits.

It shall be unlawful for any party to extend sewer service to facilities outside of the corporate limits of the city without the express approval of the city council. The director of utilities shall enforce this section and shall be authorized to make application in the proper court for writ or injunction restraining any person from violating this section.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-101. Management of sewer system.

The wastewater system of the city shall be and remain under the management, supervision and control of the city manager, who may employ or designate such person or persons in such capacity or capacities as he deems advisable to carry out the efficient management and operation of the system. The director of utilities, subject to the approval of the city manager, may make such rules, orders or regulations as he deems advisable and necessary to assure the efficient management and operation of the system, and to provide equitable charges for the services thereof, subject, however, to the rights, powers, and duties in respect thereto which are reserved by law to the city council.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-102. Definitions.

When used in this article, the following terms shall be construed as defined in this section, unless a different definition shall be adopted for any division of this chapter.

Act or *"the act".* The Federal Water Pollution Control Act (P.A. 92-500), also known as the Clean Water Act, as amended, 33 U. S.C. 1251, et seq.

Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)), as determined by "Standard Methods."

Board. Sewer board of appeals.

Building sewer. A sewer conveying wastewater from the premises of a user to the public sewer, and not owned or maintained by the City of Midland.

Categorical standards. National categorical pretreatment standards or pretreatment standard.

City. The City of Midland or the city council of Midland.

Code. City of Midland Code of Ordinances.

Combined sewer. A sewer intended to serve as a sanitary sewer and a storm sewer.

Compatible pollutant. Materials of acceptable concentration designated by biochemical oxygen demand, pH, fecal coliform bacteria, suspended solids, phosphorus or other pollutants as designated by the director of utilities.

Cooling water. The water discharged from any use such as air conditioning, cooling or refrigeration, and to which the only pollutant added is heat.

Department. City of Midland utilities department generally and wastewater division specifically.

Direct discharge. The discharge of treated or untreated wastewater directly into the waters of the State of Michigan, without first having been treated by the POTW.

Director. The director of utilities for the City of Midland, or his duly authorized representative(s).

Director of utilities. The person designated by the city manager to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his duly authorized representative(s).

Discharge. Spilling, leaking, seeping, pumping, pouring, emitting, emptying, dumping or depositing.

Domestic user. Those users that discharge normal domestic waste from residential living units and resulting from the day-to-day activities usually considered to be carried out in a domicile. Discharges from other users to be considered normal domestic waste shall be of the same nature and strength and have the same flow rate characteristics thereof.

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.

Fats, oil and greases. Organic compound derived from animal and / or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in the United States Code of Federal Regulations 40 CFR 136 as may be amended from time to time. All are sometimes referred to as “grease” or “greases”.

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

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

Ground water. The water beneath the surface of the ground, whether or not flowing through known or definite channels.

Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

Incompatible pollutants. All pollutants not defined as compatible.

Indirect discharge. The discharge or the introduction of nondomestic pollutants from any source regulated under Section 307(b) or (c) of the act (33 U.S.C. 1317), into and through the POTW.

Interference. The inhibition or disruption of the POTW treatment processes or operations which contributes 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.

National categorical pretreatment standard or *pretreatment standard.* Any regulation containing pollutant discharge limits promulgated by the EPA 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.

National pollutant discharge elimination system (NPDES). A national permit program established by the Federal Water Pollution Control Act Amendment of 1972 (Public Law 92-500) requiring all municipalities, industries and commercial enterprises that discharge to surface watercourses to have NPDES permits approved by the U.S. EPA and in Michigan the Water Resources Commission by December 31, 1974.

National prohibitive discharge standard or *prohibitive discharge standard.* Any regulation developed under the authority of Section 307(b) of the act and 40 CFR, Section 403.5.

Natural outlet. Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

New sources. Any source, the construction of which is commenced after the publication of proposed regulations prescribing a new source performance standard which will be applicable to such source, if standard is thereinafter promulgated in accordance with Section 306(a) of the Clean Water Act.

Nondomestic user. Those users discharging other than normal domestic waste.

Normal domestic waste. User discharges to the City of Midland POTW in which concentrations of suspended solids, five-day BOD, and phosphorus are three hundred (300), three hundred fifty (350), and thirteen (13), respectively, at the point of discharge to the POTW.

Oil. Oil of any kind, in any form including, but not limited to, petroleum, fuel oil, sludge and oil refuse, gasoline, grease, and oil mixed with waste.

Other waste. Garbage, refuse, decayed wood, bark and other wood debris, wastes from industrial processes, and other substances which are not included within the definition of pollutant.

Operation and maintenance. The labor, material, and other costs incurred by the performance of operation and maintenance of a sewer system.

Owner. The owners or owner of the freehold of the premises or lesser estate therein, a mortgage or vendee in possession, an assignee of rents, receiver, executor, trustee, lessee or any other person, firm or corporation directly or indirectly in control of a building, structure or real property, or his duly authorized agent.

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

Permittee, permit holder. Any person who owns, operates, possesses or controls an establishment or plant being operated under a valid wastewater contribution permit to discharge waste in to the city POTW.

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

Phosphorus (total). As defined and determined by "Standard Methods."

Pollutant. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, oils, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

Pollution. The placing of any noxious or deleterious substance in any waters of the state in quantities which are or may be potentially harmful or injurious to human health or welfare, animal or aquatic life, or property, or unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

POTW treatment plant. That portion of the POTW designed to provide treatment to wastewater.

Pretreatment or *treatment.* The reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature 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. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR, Section 403.6(d).

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

Private sewage disposal system. A system for pretreatment of sewage by any means, designed to treat wastewater prior to discharge to the POTW.

Public sewer. A sewer that is owned and maintained by the City of Midland.

Publicly owned treatment works (POTW). A treatment works as defined by Section 212 of the act (33 U. S.C. 1292) which is owned in this instance by the city. This definition includes any sewers that convey wastewater to the POTW treatment plant, except those pipes, sewers or other conveyances connected to a facility providing pretreatment or a building sewer. For the purposes of this article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the city who are, by contract or agreement with the city, users of the city's POTW.

Readiness-to-serve charge. A charge approximately equal to the proportional fixed costs of the city's water system attributable to each user.

Sanitary sewer. A sewer intended to carry only sanitary or sanitary and industrial wastewaters from residential and commercial buildings, industrial plants, or institutions.

Shall is mandatory; *may* is permissive.

Standard methods. The most recent edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Association, a copy of which is on file in the office of the director.

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.

State. State of Michigan.

Storm sewer. A sewer intended to carry only storm waters, surface runoff, street wash water, sub-soil drainage, and noncontact cooling water.

Storm water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Surcharge. As applies to this chapter, that charge levied on users of the POTW resulting from user contributions of nondomestic waste to the POTW or a charge to the user by the city to recover costs, of and by the city, for accepting and treating a user contribution in lieu of user pretreatment of nondomestic waste.

Surface waters. Water upon the surface of the earth, whether contained in bounds created naturally or artificially, or diffused.

Suspended solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering as determined by "Standard Methods."

Toxic pollutant. Any pollutant or combination of pollutants that are determined to be toxic or are listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of the CWA 307a) or other acts.

User. Any person, establishment, or owner who discharges any domestic or nondomestic sewage or waste into the POTW system of the city or any system connected thereto.

User charge. A charge levied on the users of the POTW for the normal cost of operation, maintenance and replacement of such works.

Wastewater. The liquid and water-carried wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground water, surface water, and storm water that may be present, whether treated or untreated, which is discharged into the POTW.

Wastewater contribution permit. As set forth in this chapter, a permit issued by the city to nondomestic users of the POTW.

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

Waters of the state. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
(Ord. No. 1087, § 1, 6-3-85; Ord. No. 1514, § 1, 7-23-01; Ord. No. 1665, § 1, 8-11-08)

Sec. 28-103. Abbreviations.

BOD--Biochemical oxygen demand

mg/l--Milligrams per liter

POTW--Publicly owned treatment works

SWDA--Solid Waste Disposal Act

NPDES--National pollution discharge elimination system

CFR--Code of Federal Regulations

CWA--Clean Water Act

SWRC--State Water Resources Commission (Michigan)

EPA--Environmental Protection Agency (Federal)

PERM--Program for Effective Residuals Management (MDNR)

MDNR--Michigan Department of Natural Resources
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-104. Waste deposits.

It shall be unlawful for any person to place or deposit, or permit to be deposited, in an unsanitary manner upon any public or private property within the City of Midland or in any area under the jurisdiction of the said City of Midland, any human or animal excrement, garbage or other objectionable waste or wastes either in volumes or concentrations which will adversely effect said properties.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-105. Sewage disposal method required.

All places within the city where people reside, are employed, or congregate shall be provided with a sanitary method for the disposal of sewage. It shall be the duty of the property owner to provide such sanitary method.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-106. Sewage to be disposed of in approved device.

It shall be unlawful for any person within the city to throw out, deposit or in any other way dispose of sewage, other than into a sanitary water closet, properly constructed septic tank, or other sanitary toilet device approved by the city engineer.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-107. When connection to sewer required.

Whenever any dwelling, store, hotel, restaurant or any other building where restrooms, lavatories, urinals or closets are maintained, is located on streets where public sewers are accessible to the property on which such dwelling, store, hotel, restaurant or other building is erected, such dwelling, store, hotel restaurant or other building shall make connection with the city sewer system and shall thereafter use such system for the disposal of all human wastes, and all septic tanks, vaults, and cesspools shall be cleaned out and filled with sand or other suitable material.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-108. Where sewers are installed; grant of easement.

All sewer mains shall be installed in public rights-of-way. However, where it is deemed necessary that certain sewer mains be installed on private property, the property owner shall grant an easement to the city for the purposes of inspection and maintenance of sewer mains.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-109. Notice that connection is to be made; billing; appeal.

When a public sanitary sewer is installed and is accessible to an unsewered property, the city's building official shall (in writing) notify the property owner of record (as determined from records in the city assessor's office) that the sewer is accessible and that connection to the public sewer shall be made within a period not to exceed one year. In addition, the owner shall be notified that, because the public sanitary sewer is available for

connection by any dwelling, store, hotel, or restaurant (or any other building where lavatories, urinals and closets exist for the disposal of human wastes), a sewage bill shall be charged as though the property were connected to the public sanitary sewer. The bill for same shall be calculated according to the rates division of this article. The sewage bill shall commence when connection is made, or one year after the public sanitary sewer is available. Hardship cases may be appealed to the sewer board of appeals.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-110. Injuring, depositing prohibited substances in sewers.

No person shall injure, break, or remove any portion of any manhole, catch basin or any part of the POTW, or throw or deposit or cause to be thrown or deposited in any sewer opening or receptacle connecting with the sewer system, any unground garbage, offal, dead animals, vegetable parings, ashes, cinders, rags, newspaper, or any other matter or thing whatsoever except feces, urine and the necessary tissue paper, except through contract, agreement or approval of the director of utilities. The discharge of any substances into the sewer system which are liable to injure the sewers, endanger the public safety and health, or inhibit efficient operation of the treatment works or the flow of sewage is prohibited.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-110.1. Stormwater and groundwater prohibited in sanitary sewer, building sanitary sewer or lateral sewer.

After October 26, 1987, any new installation of a downspout, weep tile, footing drain, sump pump discharge or any other conduit that carries storm or groundwater shall not be allowed to discharge into the sanitary sewer, building sanitary sewer or lateral sewer.
(Ord. No. 1139, § 1, 10-19-87; Ord. No. 1151, § 2, 6-6-88; Ord. No. 1424, § 2, 9-14-98)

Sec. 28-110.2. Downspout, roofing drain, yard drain, truck dock and parking lot drain connection to sanitary sewer, building sanitary sewer or lateral sewer prohibited.

The purpose of this section is to diminish the threat to the health, safety and welfare of the people of the City of Midland who may be affected by flood or other damage caused by the accumulation of storm water and groundwater draining from downspouts, roofing drains, yard drains, truck docks and parking lot drains directly into the sanitary sewer system and to reduce economic losses to individuals and the community at large.

After November 30, 1998, it shall be unlawful to discharge stormwater or groundwater directly into a City of Midland sanitary sewer, building sanitary sewer or lateral sewer from downspouts, roofing drains, yard drains, truck docks and/or parking lot drains constructed or installed prior to October 26, 1987, unless:

(1) A waiver has been granted in accordance with section 28-112; or

(2) The city engineer has determined that the following two (2) conditions exist:

a. The discharge of stormwater or groundwater cannot be redirected to a storm sewer due to the unavailability of a storm sewer; and

b. The discharge of stormwater or groundwater cannot be retained entirely on permeable lawn area located on the same property that contains the downspouts, roofing drains, yard drains, truck docks and/or parking lot drains that are connected to the sanitary sewer system.

For purposes of this division, yard drains shall be defined as drains located within the lawn area and shall not include patio drains, basement walkout drains or other drains associated with residential buildings. (Ord. No. 1424, § 3, 9-14-98; Ord. No. 1425, § 1, 9-28-98; Ord. No. 1438, § 1, 3-8-99)

Sec. 28-111. Order to disconnect.

(a) In the event that, after November 30, 1998, a downspout, roofing drain, yard drain, truck dock or parking lot drain remains connected to a City of Midland sanitary sewer, building sanitary sewer or lateral sewer, the utilities director shall issue an order to disconnect to the owner of the property on which the drain is located.

(b) Service of the order shall be made upon the owner of the property either personally or by:

(1) Mailing a copy of such order by certified mail, postage prepaid, return receipt requested, to each owner of the property as indicated by the records of the city assessor; or

(2) If no address is specified in the assessor's records or is otherwise known to the utilities director, a copy of the order shall be mailed to the owner of record at the building address and a copy of the order shall also be posted in a conspicuous place on the building.

The failure of any such owner of record to receive a copy of the order shall not affect the validity of any proceedings taken under this division. Service by certified mail in the manner herein provided shall be effective on the date of mailing. Proof of service of the order shall be by affidavit sworn to by the person effecting service; declaring time, date and manner in which the service was made. The affidavit, together with any receipt card returned in acknowledgment of receipt by certified mail, shall be affixed to the copy of the order which shall be retained by the utilities director.

(c) An order to disconnect shall specify the property at issue and shall require:

(1) That all downspouts located on the property shall be disconnected from all City of Midland sanitary sewers, building sanitary sewers or lateral sewers within thirty (30) days of the issuance of said order; or

(2) That all roofing drains, yard drains, truck dock and parking lot drains shall be disconnected from all City of Midland sanitary sewers, building sanitary sewers or lateral sewers within sixty (60) days of the issuance of said order.

(d) An order to disconnect shall notify the owner of the property that a waiver of the order to disconnect may be obtained by appealing to the building board of appeals as provided in section 28-113. A copy of said section shall be attached to the order.
(Ord. No. 1424, § 4, 9-14-98; Ord. No. 1425, § 1, 9-28-98)

Editors Note: Ord. No. 1424, § 4, adopted Sept. 14, 1998, repealed the former § 28-111 and enacted a new § 28-111 as set out herein. The former § 28-111 pertained to critical accumulation area defined and derived from Ord. No. 1087, § 1, adopted June 3, 1985.

Sec. 28-112. Waivers.

A waiver of an order to disconnect may be obtained for the following reasons:

(1) Economic hardship.

(2) Contractor availability or other construction constraints.

A waiver may be granted for any period of time; provided, however, that under no circumstance shall a waiver be granted for a total waiver period greater than one (1) year.
(Ord. No. 1424, § 4, 9-14-98)

Editors Note: Ord. No. 1424, § 4, adopted Sept. 14, 1998, repealed the former § 28-112 and enacted a new § 28-112 as set out herein. The former § 28-112 pertained to resolution ordering downspout disconnection in critical accumulation area and derived from Ord. No. 1087, § 1, adopted June 3, 1985.

Sec. 28-113. Appeals.

Any owner of property subject to an order to disconnect may appeal the issuance of said order to the City of Midland building board of appeals, as created under chapter 5, section 5-27 of the City of Midland Code of Ordinances. The board shall hold public hearings to consider such appeals. The board is authorized to investigate all appeals and to grant waivers of orders to disconnect. The running of the period to disconnect specified in subsections 28-111(c)(1) and (2) shall be suspended until such time that a decision regarding the appeal is rendered by the board.

All appeals shall be in writing and shall be filed with the chief building official. An appeal shall state the reason(s) why the property owner has requested the waiver. If the waiver has been requested due to economic hardship, the property owner shall provide to the board written documentation regarding the hardship. A fee as established in chapter 21 of said Code shall accompany each appeal.
(Ord. No. 1424, § 4, 9-14-98)

Editors Note: Ord. No. 1424, § 4, adopted Sept. 14, 1998, repealed the former § 28-113 and enacted a new § 28-113 as set out herein. The former 28-113 pertained to appeal from downspout disconnection resolution and derived from Ord. No. 1087, § 1, adopted June 3, 1985.

Sec. 28-113.1. Penalties.

Any person who violates section 28-110.2 and who has failed to comply with an order issued pursuant to subsection 28-111(c), and from which no appeal has been taken, shall be responsible for a municipal civil infraction. Upon conviction of such infraction, such person shall be punished as provided in chapter 34 and fined according to section 21-101 of chapter 21 of the Code of Ordinances. The imposition of one (1) municipal civil infraction fine for any violation shall not excuse the violation or permit it to continue and all such persons shall be required to correct or remedy such violation or defects. Every day of noncompliance shall be deemed a separate violation. Imposition of the fine specified in section 21-101 of chapter 21 shall not be held to prevent the enforced removal of the sanitary sewer connection.
(Ord. No. 1424, § 5, 9-14-98)

Sec. 28-113.2. Council review.

At the last city council meeting held in May, 1999, the city council shall review section 28-112, Waivers, and the data compiled by the building board of appeals as a result of the appeals filed with that board pursuant to section 28-113.
(Ord. No. 1424, § 5, 9-14-98)

Sec. 28-114. Toilets, septic tanks, etc., not to be a nuisance.

The owner or occupant of any premises within the city shall not use, maintain, or permit the use of, therein or thereon, a toilet (permanent or portable), septic tank, drain field or drain that is a menace to the health or safety of individuals or the public. Any sewer, septic tank, tile field or drain not maintained so that sewage or sewage effluent shall flow into a road right-of-way, a ditch, a stream, or so that sewage or sewage effluent accumulates on the surface of the ground within two hundred (200) yards of a dwelling, establishment or highway shall be deemed to be a public health nuisance.
(Ord. No. 1087, § 1, 6-3-85)

State Law References: M.S.A., Sec. 14.433(1)--14.433(4).

Sec. 28-115. Toilets to be kept in sanitary condition.

It shall be the lawful duty of the occupants of each premises to see that all toilets, urinals, or other toilet devices upon such premises are kept in sanitary condition at all times.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-116. Cleaning, disposing of contents of toilets, septic tanks.

The manner and method of cleaning and disposing of the contents of all toilets and septic tanks shall be under the direction of the director of utilities.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-117. Director of utilities to give notice to correct unsanitary condition.

The director of utilities shall, in writing, notify the owner or occupant of any premises when it is determined that a toilet, septic tank, drain field or drain on such premises is being used or maintained in such manner as to be injurious to public health. In such notice, the director shall specify the particulars in which such toilet, septic tank, drain field or drain is being used or maintained in a manner injurious to the public health, and what shall be done to relieve and remove such condition. Such notice shall further specify a reasonable time, which shall be fixed by the director, within which such conditions shall be corrected.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-118. Ordering unsanitary condition corrected; noncompliance; cost when city acts.

When, in the judgment of the director of utilities, a drain, drain field or septic tank needs cleaning, the director may lawfully order the owner thereof to have such drain, drain field or septic tank cleaned. The failure of such owner to have the drain, drain field or septic tank cleaned within ten (10) days of the date of the order

may result in the city having it cleaned or take other action as determined necessary. The cost of cleaning the drain, drain field or septic tank shall be charged against the owner of the property by the city.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-119. Abuse of, injury to toilet, septic tank, drain.

It shall be unlawful for anyone to abuse or misuse any toilet, septic tank or drain property.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-120. Only licensed waste system cleaners permitted.

Only waste system cleaners licensed by the State of Michigan and recognized by the city shall be permitted to clean toilets, septic tanks or cesspools.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-121. Site for unloading waste transport vehicles.

The city shall cause a waste disposal site to be constructed and maintained for the purpose of receiving collected and transported wastes. The city manager or his designate is hereby authorized to establish rules and regulations regarding the use of such site. The site shall receive only approved wastes delivered by tank truck or other authorized means.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-122. Handling, transporting and disposal of sanitary waste by waste system cleaners.

Wastes collected by any waste system cleaner shall be collected and transported in such a manner as to prevent spilling. Such waste hauled for dumping at the city's designated waste disposal site shall be collected and transported in watertight, covered metal tanks on vehicles registered with, certified and licensed by the State of Michigan. The method of collection, transport and disposal, and the content of wastes for disposal at the waste disposal site, shall be subject to the approval of the director of utilities.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-123. Hauled wastes to be disposed of at approved site.

It shall be unlawful for any person to dispose of collected and transported wastes within the city except at the established waste disposal site.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-124. Collected and transported waste disposal; permit and fee required.

Before wastes from any septic tank or any other waste collection device are transported for disposal at the city waste disposal site, the person cleaning or having such tank or device cleaned shall apply for and receive a disposal permit (waste disposal ticket). The permit shall be issued upon the payment of a fee, in the amount of seventy-eight dollars ($78.00) minimum per truckload or seventy-eight dollars ($78.00) per one thousand (1,000) gallons of waste or part thereof, whichever is greater, for each such load transported to the

waste disposal site. Before unloading, each permit shall be presented to the city employee on duty at the waste disposal site.
(Ord. No. 1087, § 1, 6-3-85; Ord. No. 1120, § 1, 3-23-87; Ord. No. 1661, § 1, 06-23-08)

Sec. 28-125. Site to be used only when city employee is on duty.

It shall be unlawful for any person to use the city waste disposal site except when an employee of the city is on duty at such site and available to supervise unloading activities.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-126. Use of site by nonresidents of city.

It shall be unlawful for any person to dispose of collected wastes from outside the boundaries of the city at the waste disposal site without the written authorization of the director of utilities.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-127. Violation of collected waste disposal provisions.

Any person who shall violate sections 28-119 through 28-125 of this Code shall be punished pursuant to section 1-11 of this Code, and the court shall prohibit any such violator the use of the waste disposal site for a period of not less than thirty (30) days nor more than six (6) months.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-128. Water pollution.

It shall be unlawful to discharge, either directly or indirectly, to any natural outlet, surface water, drainage ditch, storm sewer, sanitary sewer, or combined sewer within the City of Midland or in any area under the jurisdiction of the said City of Midland, any sanitary sewage, industrial waste, other polluted waters or pollutants, except where suitable treatment is provided in accordance with the standards established by the SWRC.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-129. General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of the POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. A user may not contribute the following substances to the POTW:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW, or a hazard to public health. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five (5) percent nor any single reading over twenty (20) percent of the lower explosive limit (LEL). Prohibited materials include, but are

not limited to: gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW due to pass-through, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the act.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for maintenance and repair.

(6) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for discharge, disposal, reclamation, and/or reuse or to interfere with the treatment or reclamation process.

(7) Any substances which will cause the POTW to violate its NPDES and/or state disposal system permit (PERM).

(8) Any wastewater with objectionable color not removed in the treatment process such as, but not limited to, dye wastes and vegetable tanning solutions.

(9) 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 (one hundred and four (104) degrees Fahrenheit).

(10) Any pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or pollutant concentration which will cause or is deemed to cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes, more than five (5) times the average twenty-four-hour concentration, quantities, or flow during normal operation.

(11) Any wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations.

(12) Any wastewater which causes a hazard to human health or life or creates a public nuisance. When the director determines that a user(s) is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the director shall:

(a) Advise the user(s) of the impact of the contribution on the POTW; and

(b) Require the user to obtain, maintain and comply with a wastewater contribution permit.

(13) No user shall allow wastewater discharge concentration of grease to exceed 100 milligrams per liter as defined by EPA test method 1664. Request to use any other analytical method must be approved by the wastewater superintendent.

(Ord. No. 1087, § 1, 6-3-85; Ord. No. 1665, § 1, 8-11-08)

Sec. 28-130. Comprehensive review of sanitary sewer system and storm sewer system.

In connection with the submittal of the city's application for renewal of its National Pollution Discharge Elimination System (NPDES) permit, but not less frequently than every five (5) years, the city manager shall submit a report to the city council which shall include a comprehensive review of the city's sanitary and storm sewer systems including, but not limited to, their capacity, growth, ordinances, operations and maintenance. This report shall be submitted to the city council at its regularly scheduled meeting immediately prior to the due date of the city's NPDES renewal application.

(Ord. No. 1433, § 1, 12-21-98)

Secs. 28-131--28-145. Reserved.

DIVISION 2.

SEWER BOARD OF APPEALS

Sec. 28-146. Composition; appointment.

There is hereby established a sewer board of appeals, hereinafter referred to as the board, which shall consist of five (5) members appointed by the city council. One member shall represent the Midland City-County Health Department, one member shall be the director of utilities or his designated agent for the city, and three (3) members shall be citizens at large, residents of the city.

(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-147. Term of office.

The term of office for members of the board shall be for three (3) years.

(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-148. Ex officio members.

The member of the board representing the Midland City-County Health Department, and the director of utilities or his designated agent, shall serve as ex officio members.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-149. Internal management.

The board shall elect its own chairman and adopt its own rules of procedure. The director of utilities or his designated agent shall serve as permanent secretary for such board. The board shall keep a record of its proceedings, showing the action of the board and the vote of each member upon each appeal considered.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-150. Removing from office; filling vacancies.

Members of the board may, after public hearing, be removed by the city council for inefficiency, neglect of duty, or malfeasance in office. Vacancies occurring otherwise than through the expiration of a term in office shall be filled for the unexpired term by the city council.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-151. Members to serve without compensation.

All members of the sewer board of appeals shall serve without compensation.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 20-152. Liability of board and individual members.

In no case shall the sewer board of appeals or any members thereof be liable for costs in any action or proceeding that may be commenced in pursuance of the provisions of this chapter.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-153. Appeals to the sewer board.

Provision is hereby made whereby users (whether current or future) of the POTW and subject to this chapter may appeal rules, regulations, limitations, notices of violation, penalties and fines stipulated and issued by the city. In this connection:

(1) Where the appellant alleges that there exists a reasonable excuse for not connecting to the sewage facilities or for not paying sewage treatment fees or otherwise not complying with any of the requirements of Division 1, 3 and 4 of this article, the sewer board of appeals shall hear and decide the appeal. It shall be the duty of the appellant to show just cause why such sewer should not be connected, sewage treatment fees not paid, or why any of the requirements of Divisions 1, 3 and 4 of this article should not apply. After hearing these appeals and reviewing the material presented, the board shall rule on the appeal. A decision of the board on these appeals shall be

made and be final. The secretary of the board shall notify the appellant, in writing, and record the board's decision.

(2) Where the appellant alleges that there exists a reasonable excuse for not complying with orders, citations, rules, regulations or limitations as provided by Divisions 5 and 6 of this article or for not paying any fines, penalties or reimbursements to the city resulting from noncompliance with orders, citations, rules, regulations or limitations as provided by this article, the sewer board of appeals shall hear the appeal. It shall be the duty of the appellant to show just cause why such orders, citations, rules, regulations and/or limitations should not apply and why fines, penalties and/or charges levied by the city upon the appellant should not be paid. After hearing these appeals and reviewing the material presented, the board will issue a recommendation (in writing) to the city council where a decision shall be made. The recommendation from the board shall discuss the appeal and indicate the vote on the recommendation to the city council. The city council shall review the board's recommendation and rule on the appeal. A decision of the city council on these appeals shall be made and be final. The city clerk shall notify the appellant in writing of the city council's decision.

(Ord. No. 1087, § 1, 6-3-85)

Secs. 28-154--28-160. Reserved.

DIVISION 3.

RATES

Sec. 28-161. City may establish sewer rates.

The city may classify the users of sewage disposal service according to the quantities and types of water used by such users, and charge such rates to users in each class in proportion to the costs of providing sewage disposal service to, and according to the benefits received by, such classes of users.

(Ord. No. 1514, § 1, 7-23-01)

Editors Note: Ord. No. 1514, § 1, adopted July 23, 2001, amended § 28-161 in its entirety, in effect repealing and reenacting § 28-161 to read as herein set out. Formerly, § 28-161 pertained to the purpose of sewer rates, charges, and derived from Ord. No. 1087, § 1, adopted June 3, 1985.

Sec. 28-162. Reserved.

Editors Note: Ord. No. 1514, § 1, adopted July 23, 2001, repealed the former § 28-162, which pertained to the levy of sewer charges and derived from Ord. No. 1087, § 1, adopted June 3, 1985.

Sec. 28-163. Amount of sewer charge.

The city's methodology of adjusting sewer rates shall be in accordance with the cost of service water and sewer rate study prepared by the city’s consultant, presented to and approved by the council in 1993 and shall be in conformity with the findings set forth in Section 28-4 of this chapter.

The charges for sewer service shall be calculated according to the following schedule:

(1) There shall be a readiness-to-serve charge per quarter on each metered water service as follows:

Metered Service	Amount
5/8" – 3/4"	$47.37
1"	$61.58
1 – 1/2"	$75.79
2"	$123.16
3"	$473.70
4"	$615.81
6"	$900.03
8"	$1,278.99

(2) In addition to the readiness-to-serve charge set forth in subsection (1) of this section, there will be an additional charge for sewer service, which will be calculated as follows:

For each 1,000 gallons of water used per quarter: $2.27

However, bills for sewer services for two (2) summer quarters for domestic customers, schools and churches shall be based on the average consumption during two (2) winter quarters. In cases where there is no previous consumption upon which to base bills for sewer services in the summer quarters, twenty-five thousand (25,000) gallons or actual consumption, whichever is the least, shall be used.

(Ord. No. 1087, § 1, 6-3-85; Ord. No. 1100, § 1, 2-24-86; Ord. No. 1119, § 1, 3-9-87; Ord. No. 1140, § 1, 1-23-87; Ord. No. 1183, § 5, 10-30-89; Ord. No. 1202, § 1, 10-29-90; Ord. No. 1226, § 1, 8-26-91; Ord. No. 1242, § 1, 6-29-92; Ord. No. 1272, § 1, 9-13-73; Ord. No. 1297, § 1, 6-27-94; Ord. No. 1353, § 1, 6-24-96; Ord. No. 1417, § 1, 6-22-98; Ord. No. 1454, § 1, 6-21-99; Ord. No. 1480, § 1, 6-26-00; Ord. No. 1514, § 1, 7-23-01; Ord. No. 1539, § 1, 6-24-02; Ord. No. 1563, § 1, 6-23-03; Ord. No. 1582, § 1, 6-28-04, Ord. No. 1602, § 1, 6-27-05; Ord. No. 1618, § 1, 6-26-06; Ord. No. 1636, § 1, 6-25-07; Ord. No. 1660, § 1, 06-23-08; Ord. No. 1682, § 1, 06-22-09; Ord. No. 1708, § 1, 06-28-10; Ord. No. 1732, § 1, 06-25-12; Ord. No. 1750, § 1, 06-24-13; Ord. No. 1759, § 1, 06-23-14; Ord. No. 1776, § 1, 06-22-15; Ord. No. 1788, § 1, 06-27-16)

Sec. 28-164. How sewer charge determined.

The quantity of water used in or on the premises as measured by the city water meters shall be the basis for the sewer bill except where the premises are not connected to the city water system. In such cases the city council may order a water meter installed at the property owner's cost and such meter, which shall be owned and maintained by the city, shall be used to measure the amount of water used from a private source, or a quarterly charge may be fixed by resolution of the city council. If any premises is a user of water from both types of water sources, the bills for sewer services shall be based on a combination of water use and/or fixed charges as determined by the city council.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-165. Preparation, collection of sewer bills.

The bills for sewer services shall be prepared by the water department and collected at the same time and in the same manner as provided for water bills.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-166. Late payment.

The bill for water and sewer services shall be prepared so as to indicate a net charge for both services, computed in accordance with the provisions of this chapter. A gross charge which shall be ten (10) percent greater than the net charge shall become due and payable if the bill remains unpaid after the due date shown on the bill.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-167. Enforcement of payment of sewer bill.

The water department is hereby authorized to enforce the payment of sewer service bills by shutting off the user's water supply, or an action by assumpsit may be instituted by the city against such user. Moreover, by Section 21 of Act 94, Michigan Public Acts of 1933, as amended, bills for sewer services shall constitute a lien on the premises affected. The city shall certify those rates and charges delinquent for six (6) months or more to the city tax assessing officer, who shall enter the amount of the delinquent rates and charges on the tax roll against the premises to which the service was rendered, and shall collect the rates and charges and enforce the lien in the same manner as provided for the collection of ad valorem property taxes assessed upon the same roll, or as otherwise provided by this chapter.
(Ord. No. 1514, § 1, 7-23-01)

Editors Note: Ord. No. 1514, § 1, adopted July 23, 2001, amended § 28-167 in its entirety, in effect repealing and reenacting § 28-167 to read as herein set out. Formerly, § 28-167 pertained to similar subject matter and derived from Ord. No. 1087, § 1, adopted June 2, 1985.

Sec. 28-168. Sewer districts for meter reading, billing, and administrative purposes.

The city shall be divided into sewer districts the boundaries of which may be changed as required by the water department for meter reading, billing, or other administrative purposes. Meter readings, billing dates, and summer and winter quarters shall be according to the following schedule in the respective districts:

District	*Meter Read In*	*Approximate Period Covered*	*Bill Mailing Date*	*Type Quarter*
No. 1	January	October--November--December	February 1st	Winter
	April	January--February--March	May 1st	Winter
	July	April--May--June	August 1st	Summer
	October	July--August--September	November 1st	Summer
No. 2	February	November--December--January	March 1st	Winter
	May	February--March--April	June 1st	Winter
	August	May--June--July	September 1st	Summer
	November	August--September--October	December 1st	Summer
No. 3	December	September--October--November	January 1st	Winter
	March	December--January--February	April 1st	Winter
	June	March--April--May	July 1st	Summer
	September	June--July--August	October 1st Summer	

(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-169. Records, books of sewer rates; annual statement.

The city manager shall cause to be maintained and kept, proper books of record and account in which shall be made full and correct entries of all transactions relating to sewer rates and charges. Not later than three (3) months after the close of the fiscal year, the city manager shall cause to be prepared a detailed statement showing the cash income and disbursements at the beginning and close of the operating year, as may be necessary to enable any taxpayer to be fully informed as to all matters pertaining to the financial operation during such year. Such annual statement shall be filed in the office of the city clerk where it shall be open to public inspection.
(Ord. No. 1087, § 1, 6-3-85)

Secs. 28-170--28-175. Reserved.

DIVISION 4.

CONNECTIONS

Sec. 28-176. City sewer inspector designated; enforcement of division.

The city engineer is designated as city sewer inspector. The city engineer shall, under the direction of the city manager, administer the provisions of this division. The city engineer is hereby authorized to make application in the proper court for a writ of injunction restraining any person from violating any of the provisions of this division.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-177. Authorizing sewer connection work; fees and billing.

All sewer connections made within the city may be constructed by force account by the department of public works upon authorization by resolution of the city council. All permit fees as prescribed in this division shall be added to the actual cost of the construction of the sewer connection and the total amount shall be billed to the property for which the connection is being built. The city engineer shall complete all records and compute all costs and transmit to the city finance department the necessary information for billing.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-178. Sewer connection--Permit required.

No connection with any sewer within the city shall be made by any person until a written permit for making a connection shall have been obtained from the city engineer. Every connection with any such sewer made without permission or in any manner not herein prescribed for such connection shall subject the person making such connection and the owner or owners of the premises for which such connection is made to punishment according to this Code.
(Ord. No. 1087, § 1, 6-3-85)

Cross References: Sewer connector's license fee, § 21-42.

Sec. 28-179. Same--Application.

Application for permits to connect to the sewer system must be made in writing by the owner, or his authorized agent, of the property to be sewered or drained. Such application shall give the exact location of the property, number of lot, number of feet of frontage, schematic of buildings to be connected, the name of the owner, the name of the licensed sewer builder employed to do the work, and shall be made on blanks furnished for this purpose by the city engineer.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-180. Same--Save harmless provision.

The sewer connection permit shall be granted upon the express condition that the owner for whose benefit the connection is made shall, on behalf of himself, his heirs or assigns, hold the city harmless for any loss or damage that may in any way result from or be caused by the making of any such connection.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-181. Same--Deposits.

In addition to the permit fees required by section 21-43 of this Code, the following deposits shall be made to the city treasurer's office before a sewer connection permit is granted:

(1) Where the proposed sewer connection is to be constructed in a street or alley upon which pavement exists, the sewer connection builder shall deposit with the city treasurer the estimated cost and expense of replacing such pavement to its original condition, and the builder shall be refunded or billed any difference as finally determined when the pavement has been replaced by the city.

(2) Where the sewer connection is to be constructed in a street or alley upon which a gravel surface now exists, the sewer connection builder shall deposit with the city treasurer a sum (to be determined by the director of public works) which is determined to be the cost to the city of replacing the gravel surface to its original condition. However, the city engineer may determine that the gravel surface will not be required due to the immediate paving of the street, and in this case no fee will be required of the sewer connection builder.

(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-182. Sewer connection charges.

Sewer connection charges shall be made in accordance with the provisions of Chapter 21, entitled "Rates, Charges and Fees," of this Code.

In addition to any other sewer connection charges, a one-time sewer system Capital Charge shall be paid in advance of connection in accordance with the following schedules.

Metered Service	Amount
5/8" – 3/4"	$3,250.00
1"	4,225.00
1 – 1/2"	5,200.00
2"	8,450.00

3"	32,500.00
≥ 4"	42,250.00

For residential new construction:

	Amounts / Effective Dates			
Metered Service	10/1/2013	1/1/2015	1/1/2016	1/1/2017
5/8" – 3/4"	$812.50	$1,625.00	$2,437.50	$3,250.00
1"	$1,056.25	$2,112.50	$3,168.75	$4,225.00

Cross References: Sewer connection fees, § 21-43.
(Ord. No. 1087, § 1, 6-3-85; Ord. No. 1278, § 1, 9-20-93; Ord. No. 1749, § 1, 6-24-13; Ord. No. 1753, § 1, 9-30-13)

Sec. 28-183. Connections to sewer system to be performed in accordance with division.

All connections of sewers, drains or plumbing work from houses, stores, plants, or other structures on private property with the sewer system of the city shall be made in accordance with the provisions of this division.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-184. Compliance with Chapter 22 of Code.

Persons constructing sewer connections shall comply with all applicable provisions of Chapter 22 entitled "Streets and Sidewalks," of this Code.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-185. Separate sewer connection to each lot.

Each lot shall have a separate sewer connection.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-186. Notice to be given before pavement is opened.

At least twenty-four (24) hours notice must be given at the office of the city engineer of any sewer connection by the owner or builder before any street or public way shall be opened for the purpose of laying a sewer connection or repairing same.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-187. Connections to be made at Y's or stubs.

All connections with the sewer system must be made at Y branches or stubs wherever possible. In the event that it is necessary to make such connections with the sewer at a point where the Y or stub has not been provided, the connection shall be made in accordance with specifications in the city engineer's office, and with the approval of the city engineer.

(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-188. Inspection of connection; rejection of work.

The city engineer shall be given notice when any sewer connection work is ready for inspection. All work must be left uncovered and convenient for examination until inspected and approved. Such inspection shall include all necessary measurements so that a complete record can be made of the work. If the city engineer determines that any work constructed does not conform with this division, the sewer connection builder shall remove and replace any such rejected work and shall make all work meet the requirements of this division to the full satisfaction of the city engineer.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-189. Inspection upon completion of backfill.

Upon completion of the backfill and before the sewer connection builder has removed his barricades and left the site of the work, he shall notify the department of public works office of such completion. The condition of the street, parkway area and sidewalk area shall be then inspected by the director of public works or his authorized agent.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-190. Work done on private property to be city inspected.

Any sewer connection work on private property must be done under the inspection of the city.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-191. When utility main obstructs sewer connection.

In case a water, gas or other conduit or obstruction shall come in the way of a sewer connection, the question of passing over or under the same shall be determined by the city engineer.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-192. When sewer connection obstructs utility main.

In case a sewer connection shall come in the way of an existing water main, gas main or other obstruction, the question of passing over or under the same shall be determined by the city engineer. In no case shall a sewer connection builder be allowed to decide the question.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-193. Sewer connection work to cause no inconvenience.

At all times, sewer connection work shall be done so as to cause the least inconvenience to property owners and the general public.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-194. Street improvements to be planned to avoid harm to sewer.

Any person making any kind of an improvement in the public streets or alleys upon which sewers and sewer connections have been laid shall so plan and execute their work that no injury will occur to any public sewer or any sewer connection.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-195. Construction and performance standards generally.

All sewer connections, backfilling of trenches, protection of existing structures, replacement of site to original conditions, and other items connected therewith shall be done in full accordance with the rules and regulations of the state plumbing board insofar as they apply.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-196. Owner liability and maintenance of lines and connection.

Liability for and maintenance and repair of the building sewer from the points between the structure serviced and the connection to the public sewer shall be the responsibility of the owner of record.
(Ord. No. 1087, § 1, 6-3-85)

Sec. 28-197. Compliance with division; penalty.

No connection with any sewer shall be made except as provided in this division, and any person who shall make, permit or cause to be made a connection with such sewer in a manner contrary to the provisions of this division, or who shall fail, refuse or neglect, within ten (10) days after being notified by the city engineer that any connection is unlawfully made, to remove any sewer connection which is constructed contrary to the provisions of this division, or shall otherwise violate any of the provisions of this division, shall be guilty of a misdemeanor.
(Ord. No. 1087, § 1, 6-3-85)

Secs. 28-198--28-205. Reserved.

DIVISION 5.

WASTEWATER CONTRIBUTION PERMITS

Sec. 28-206. Identification and monitoring of POTW users.

The city shall distinguish between domestic and nondomestic users of the POTW. Identification, surveillance, monitoring, and governing of those users classified as nondomestic that discharge to the POTW or waters under jurisdiction of the city is hereby provided for through a permitting procedure. Nondomestic users subject to this division will be classified as having compatible or incompatible pollutants for purposes of the required wastewater contribution permit. Users classified as domestic users are not required to secure a wastewater contribution permit.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-207. Nondomestic user compliance with entire division.

All users identified and classified as nondomestic are required to comply with all provisions set forth in this division.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-208. Director of utilities to administer nondomestic discharges.

The director of utilities shall administer the wastewater contribution permit program for the City of Midland. The director or his designated agent shall enforce rules, regulations and restrictions, have the right of entry to any property or buildings having connection to the POTW, discontinue either water or sewer service for cause, issue or modify wastewater contribution permits, or take other actions necessary to carry out the intent of this division.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-209. City's right of revision.

The city reserves the right to revise any section, word or phrase in this division or any wastewater contribution permit issued to ensure the intent of all portions of this division.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-210. Accidental discharges.

As applies to this article, accidental discharges by nondomestic users, that are by nature of volume and/or concentration injurious to the POTW, the public health or the waters of the state, must be reported to the director as soon as discovered and immediate action taken to cease, clean up, and correct the accidental discharge.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-211. Review of accidental discharges.

The director shall review incidents of accidental discharge to determine severity, cause, and preventive measures required to ensure against future occurrence. The review process shall address any appropriate actions against the discharger including, but not limited to, service discontinuance (water and/or sewer), fines or penalties, and/or judicial proceedings. Any costs incurred by the city for this review including city personnel time and benefits, laboratory costs, equipment rental, etc., may be charged to the discharger of concern.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-212. Nondomestic discharge limitations.

When the user's discharge exceeds the pollutant concentrations set forth for "normal domestic waste" (three hundred (300) mg/l BOD, three hundred fifty (350) mg/l suspended solids and thirteen (13) mg/l phosphorus) or is otherwise incompatible, the user may be subject to a surcharge with terms stated as conditions or requirements of the user's wastewater contribution permit.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-213. National categorical pretreatment standards.

National categorical pretreatment standards as promulgated by the U.S. E.P.A. pursuant to the act shall be met by all dischargers of regulated industrial categories.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-214. State requirements.

Requirements and limitations set by the Michigan Water Resources Commission shall be met by all dischargers subject to such standards in any instance in which those state standards are more stringent than federal or local requirements and limitations.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-215. Dilution.

No discharger shall increase the use of potable, process of ground waters (or any mix thereof) in any way or mix separate waste streams for the purpose of diluting a discharge to the POTW as a partial or complete substitute for adequate pretreatment of discharges to achieve compliance with requirements of limitations set forth in this division.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-216. Supplemental limitations (discharge requirements).

No user shall discharge wastewater containing concentrations of toxic pollutants found to interfere with or pass through the POTW operation or interfere with the recycling or disposal of the wastewater bio-solids product (sludge). The following is a list of toxic pollutants of concern and the maximum allowable discharge limits for those pollutants, which is applicable to all users of the POTW:

Toxic Pollutant Name	*Maximum Allowable User Discharge Concentration*
Arsenic	1.4 mg/l
Cadmium	0.1 mg/l
Chromium (total)	2.1 mg/l
Copper	1.4 mg/l
Cyanide	1.1 mg/l
Lead	1.1 mg/l
Mercury	1.3 ng/l
Molybdenum	1.0 mg/l
Nickel	0.8 mg/l
Zinc	0.5 mg/l

The city reserves the right to amend the foregoing list as appropriate to protect the public health, safety and welfare of the citizens of the City of Midland.

Any discharge of mercury at or above 1.3 ng/l may require that a user develop, submit, and implement a Mercury Reduction Plan as approved by the City. Such plan shall include a written commitment by the user to reduce the concentration of mercury in the user's wastewater discharge. The user must submit to the City of Midland utilities department a semiannual report on the status of the mercury reduction effort. The mercury

sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with EPA method 1631.

_____

The city reserves the right to amend the foregoing list as appropriate to protect the public health, safety and welfare of the citizens of the City of Midland.
(Ord. No. 1087, § 2, 6-3-85; Ord. No. 1662, § 1, 06-23-08)

Secs. 28-217--28-225. Reserved.

DIVISION 6.

INDUSTRIAL PRETREATMENT PROGRAM

Sec. 28-226. Industrial pretreatment program required.

The city hereby undertakes an industrial pretreatment program. Said program is initiated to control nondomestic user discharge contributions by prohibiting incompatible discharges by requiring pretreatment of incompatible discharges prior to discharge, or by entering in to agreements or contracts with nondomestic users whereby the city's wastewater treatment facilities would treat said contributions.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-227. Cost recovery of industrial pretreatment program.

The director of utilities may cause a fee schedule to be developed that will allow the equitable recovery of cost from the users subject to the industrial pretreatment program. The fee schedule may address, but not be limited to, the following:

(1) The initial cost of starting industrial pretreatment program;

(2) Ongoing operation costs of the program;

(3) Discharger-specific monitoring, inspection and surveillance costs;

(4) Other fees deemed as necessary.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-228. Permit-based program.

It is the intent of this division that the industrial pretreatment program be administered on a permit basis. Permits will be issued to nondomestic users based on criteria developed by the director of utilities.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-229. Appeals by nondomestic users.

Nondomestic users, having been so classified by the director and subject to industrial pretreatment program criteria, may appeal (to the sewer board of appeals) the classification assignment or administrative orders issued pursuant to the enforcement of this article.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-230. Confidentiality of information.

Unless requested by the user in writing to the director of utilities, all information gathered in the identification and control process of discharges in the city's POTW will be public information. Data describing characteristics of wastes discharged to the POTW shall be considered public information.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-231. Wastewater contribution permits.

All nondomestic users of the POTW shall apply for a wastewater contribution permit. Additionally:

(1) Permit application. Written application for a wastewater contribution permit shall be made to the director within one hundred and twenty (120) days of promulgation of this article for current nondomestic users or thirty (30) days prior to issuance of a sewer connection permit for new sources. Specific data required by the application shall at minimum include:

(a) Site name, address, phone, contact person, sic code.

(b) Owner name, address.

(c) Site activity, hours of operation.

(d) Site plan, materials to be used, anticipated discharge volumes, and concentrations of nondomestic pollutants.

(2) Permit duration. Unless so specified by individual permit conditions, no wastewater contribution permit shall be valid for more than five (5) years, at which time reapplication shall be required.
(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-232. Nondomestic user requirements.

It shall be the responsibility of the director to establish conditions, duration, and reporting and monitoring requirements of wastewater contribution permits. Requirements and limitations of and for the user shall be developed by the director and so stated within the body of the permit. Generally:

(1) Within one hundred and twenty (120) days of the promulgation of this article, all nondomestic users of the POTW shall submit a baseline report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge and the average and maximum daily discharge volume in gallons.

(2) After review of baseline reports received from nondomestic users and notification of the user that the user is in violation of this article, within ninety (90) days of notification noncomplying users shall submit a plan to correct, through additional operation and maintenance procedures and/or pretreatment practices (reduction or elimination of prohibited or regulated substances prior to discharge to the POTW) necessary to bring the discharger into compliance with applicable treatment standards or requirements and/or provisions of this article. Monthly progress reports addressing efforts by the user to comply shall be submitted to the city until compliance is achieved.

(3) Periodic monitoring reports shall be submitted by all nondomestic users of the POTW required to obtain and maintain a wastewater contribution permit. Frequency and submittal dates will be set by the city. Nondomestic users subject to categorical pretreatment standards are required at least biannually to submit compliance and monitoring reports to the city.

(4) Permitted nondomestic uses shall cause all discharge data and records to be kept for a period of no less than three (3) years.

(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-233. Discharger notification.

The director shall notify users in writing in the following cases:

(1) When any user is or becomes classified as a nondomestic user. The director shall state why the user is classified as nondomestic and further that the user must make application for a wastewater contribution permit.

(2) When any user violates or is otherwise in noncompliance with provisions of this article, the director shall state the violation or noncompliance and the corrective and/or preventive steps the user must take to cease said violation to comply.

(3) When, for any reason, a duly issued wastewater contribution permit holder is found to be in noncompliance with conditions or requirements of said permit. The director shall state the violation and require the user to respond to the notification within a reasonable period of time. A written response shall include, but not be limited to, reason(s) noncompliance occurred, steps taken to remedy the noncompliance act or a schedule indicating when corrective actions will be completed and compliance expected, and preventive steps to ensure against future of violation or noncompliance.

(4) When new standards, regulations and/or requirements shall apply to uses of the POTW. It shall be understood that user classification and permit conditions or requirements may need to be amended due to new legislation at the federal, state or city level. As the city is notified of or receives newly promulgated requirements, limitation or standards of the Clean Water Act, Resource Conservation and Recovery Act or other duly processed state or federal acts, the director shall cause users of the POTW to be formally aware of said newly promulgated requirements, limitations or standards. The director shall state the effect on POTW users, include

a copy of the document(s) as received by the city from the duly authorized regulatory agency, and require the user to confirm receipt of said notification.

(5) When the user by action or inaction is subject to enforcement action by the city. The director shall state the violation requiring enforcement action, the enforcement action being pursued, and further actions that may be taken to correct said user action (violation or noncompliance) or inaction (negligence, violation or noncompliance).

(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-234. Discharger responsibility.

It shall be the responsibility of all nondomestic users to comply with all sections of this article. In addition to the previously stated sections generally outlining user rights and responsibilities, the user by terms and conditions of the wastewater contribution permit may be required to:

(1) Provide monitoring facilities for inspection and sampling of the user's wastewater contribution.

(2) Provide operation data to the city to assess potential problems and/or determine cause of POTW interference, injury, or upset for which the user may be liable to any or all actions stated in section 28-211.

(3) Provide the director or his designated agent the right of entry to property or buildings having connection to the city POTW. This right of entry authorizes the director to conduct sampling and inspection, examination, and/or copying of the user's records as specifically pertains to the user's discharge characteristics.

(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-235. Permit transfer.

Rights, regulations, agreements or understandings of the wastewater contribution permits are not transferable from a permittee to another party without the express and written consent of the city, nor shall any permit holder allow additions to his wastewater contribution flows or concentrations by another user without written approval of the director.

(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-236. Compliance/enforcement record keeping.

The director shall cause to be kept a summary of user compliance, noncompliance, violation, monitoring and sampling activities in a manner that will facilitate including said activities with periodic reports submitted by the city to its regulators.

(1) All records and reports shall be kept on file for the three (3) most previous years.

(2) The city had the authority to annually publish through local media channels all violations requiring enforcement action. Said public notice shall include the penalized user's name (commercial or private), location, cause for the penalty and the penalty issued.

(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-237. Penalties for violation or noncompliance of division or permit.

When, in the opinion of the director, any user has falsified information, or when noncompliance or violation of this division or the user's wastewater contribution permit or any other rules, regulations or schedules pertaining thereto has occurred, the city may terminate water and/or sewer service, institute civil or criminal action for falsification of information, noncompliance or violation of wastewater contribution permits, and recover costs incurred by the city during any or all of the aforementioned enforcement actions, or pursue any or all of the following:

(1) Suspension of water and/or sewer service may be a remedy or penalty for violation or noncompliance in the following cases:

Case 1. Where a user's discharge is determined by the city to create an imminent endangerment to human health or welfare, immediate discontinuance of water and/or sewer service or permit suspension shall be instituted.

Case 2. Where a user's discharge is determined by the city to present an endangerment to the environment or to the POTW operation, discontinuance of water and/or sewer service or permit suspension may be instituted, after said user has been notified and allowed a reasonable time (not to exceed forty-eight (48) hours) to respond.

(2) Where just cause can be demonstrated by the city, nondomestic user wastewater contribution permits may be revoked and all understandings repealed when violation or noncompliance of the permit or this division so warrants.

(3) Provision is hereby made whereby a nondomestic user notified of violation and/or noncompliance, and under penalty or citation for violation and/or noncompliance, has the right to appeal said penalty or citation to the sewer board of appeals.

(4) Users which experience an operational upset placing the user in a temporary state of violation or noncompliance with this division or his wastewater contribution permit shall:

(a) Inform the director within twenty-four (24) hours of finding said upset, orally or by written report.

(b) Where the original notification of upset was of a verbal nature, a written report shall be submitted within five (5) calendar days. Written reports shall include:

1. Description of the upset, cause thereof and the impact on the discharger's compliance status;

2. Duration of upset and/or noncompliance including dates, times, and, if continuing, an expected date/time by which compliance can be reasonably expected to occur;

3. All corrective steps taken to achieve compliance after the upset, and preventive steps to ensure against future occurrence of upset and/or noncompliance.

(c) A documented and verified operating upset shall be an affirmative defense by the user for any enforcement action against the discharger, except where gross negligence on the user's part is proven.

(5) The city has the authority to assess monetary penalties of up to three hundred dollars ($300.00) per violation per day to deter violations of or noncompliance with this division and/or a user's wastewater contribution permit.

(Ord. No. 1087, § 2, 6-3-85)

Sec. 28-238. Recovery of cost by city for enforcement actions.

The city is authorized to recover whatever the actual costs may be to enforce the provisions of the industrial pretreatment program as set forth in this division from violators of this division.

(Ord. No. 1087, § 2, 6-3-85)