

## Chapter 40

### UTILITIES\*

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\* **State Law References:** Ownership and operation of water supply or sewage disposal facility by city, Mich. Const. 1963, art. 7, § 24; local authority to provide and regulate sewer and water service, MCL 324.4301 et seq.; water and sewer authorities, MCL 124.281 et seq.

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**ARTICLE I.**

**IN GENERAL**

**Secs. 40-1--40-18. Reserved.**

**ARTICLE II.**  
**WATER SUPPLY**  
**DIVISION 1.**  
**GENERALLY**

**Secs. 40-19--40-39. Reserved.**

**DIVISION 2.**  
**SALE AND DISTRIBUTION**

**Sec. 40-40. General.**

Every consumer of water, every owner, occupant, or person in possession, charge or control of any building, structure or premises having service from or through the department of public works shall be governed by and be subject to the provisions of this division and also such other rules and regulations governing or concerning the use of water as may from time to time be adopted and approved by the city.  
(Ord. No. B, § 1, 9-3-1935)

**Sec. 40-41. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Corporation stop* means the valve placed at the junction of the water main and the service pipe.

*Curb stop* means the valve placed approximately on the property line for the purpose of shutting off the supply of water in the service pipe.

*Customers' or consumers' portion* means that part of the service lying between the curb stop and the customers' water meter.

*Department* means the department of public works.

*Established street grade* means the grade of the street for future improvement as determined by the department of public works.

*Meter* means the device used for measuring the amount of water passing through the service.

*Meter box* means a vault constructed to contain the meter and to protect it from damage.

*Owner* means any person owning any premises supplied or to be supplied with water from the public water system.

*Plumbing* shall be defined as set forth in the rules and regulations of the state board of health.

*Premises* means any single or multiple dwelling, office, store, building, etc., together with the land connected with it, and all outbuildings.

*Service* means that part of the water system between the public water main and the meter which determines the amount of water used by the consumer.

*Service box* means the cast iron extension placed above the curb stop.

*Service pipe* means the pipe which connects the water main with the water meter.

*Shut off* means the same as the curb stop.

*Street portion* means that part of the service lying between the public water main and the curb stop located approximately on the property line.

*Valve and waste* means a valve so constructed that it allows all water above it to escape through an aperture upon closing.

*Water main* means all pipes, except service pipes, used for the conveyance or distribution of water. (Ord. No. B, § 2, 9-3-1935)

#### **Sec. 40-42. Application for service.**

When the installation of water service is desired from the department of public works (DPW) for any building, structure or premises and before any service pipe is laid or any connection made with any main of the department of public works, an application in writing shall first be made to the DPW supervisor. Such application shall set forth the true legal description of the premises it is proposed to serve, the name, address and phone number of the person about to perform the work, and the size and material of the service desired. It shall also set forth fully the kind of building for which the service is intended and the applicant shall be required to answer truthfully all questions regarding such application which may be put to him by any officer or employee of the department of public works.

(Ord. No. B, § 3, 9-3-1935)

#### **Sec. 40-43. Installation of service.**

(a) No person shall make any attachment or connection with the pipes of the department of public works or make any repairs, additions to, or alterations of any fixtures connected with the system unless such connections, repairs, additions, extensions or alterations are in accord with the code approved by the state plumbing board, and with any additional rules and regulations regulating the installation of plumbing which the council may from time to time adopt.

(b) All work performed in making additions, connections, repairs, extensions or alterations of any fixtures connected with the service shall be subject to inspection by the DPW supervisor or his representatives who have authority hereby granted, to order any part of such work discontinued or changed in order that the same shall comply with the rules and regulations of the department.

(c) No water main shall be tapped or service laid within the street boundaries by anyone other than the duly authorized employees of the department or a contractor for lines over two inches and only under the authority of the DPW supervisor.

(d) All service lines shall be laid not less than five feet below the surface of the ground or established street grade.

(e) All services hereafter laid from the water main to the meter shall be of not less than three-fourths inches internal diameter.

(f) All service pipes hereafter laid of three-fourths inches internal diameter shall be of copper or traceable polyethylene tubing and of a quality to conform to the standards recommended by the United States Bureau of Standards of the Department of Commerce for copper or traceable polyethylene tubing for water service. All service pipes of over three-fourths inches internal diameter shall be of ductile, poly or copper, and shall conform to the specifications of the American Waterworks Association or as ordered by the city council.

(g) There shall be placed in all service lines on the inside of the sidewalk line a curb stop or valve equipped with an iron extension service box leading to a point above the surface of the ground.

(h) Each service box shall be equipped with a cast iron cover with the word "water" cast thereon in raised letters.

(i) No service shall be laid along the outside wall or in any position where there is danger of freezing. Every service shall be furnished with a valve with waste below the action of frost. When such valve with waste is placed under the floor the rod operating the valve shall extend above the floor.

(j) In no case shall there be any connection between water pipes receiving their supply from the city mains, and pipes and pumps or tanks receiving their supply from any other source.

(k) Each and every single house must have a separate service connection with the street main except where there are two buildings on the same lot, one in the rear of the other. Those buildings must have separate shut-offs.

(l) The cost of installing service pipes and private supply pipes, including curb stops and service boxes, shall be borne by the person making application and at such rates as the council may from time to time establish. The manner of making payment for such installations shall be in accordance with the manner which shall have been determined by the council.

(m) All rights, title and ownership to the street portion of the service, including the corporation stop, curb stop, service box and service pipe shall be vested in the city

(Ord. No. B, § 4, 9-3-1935)

**Sec. 40-44. Meters.**

(a) All connections with the water main must be prepared for the use of water through a meter and no water shall be supplied to any inhabitant of the city unless such water shall be measured by a water meter of a design approved and installed by the department of public works, provided that for water services requiring meters in excess of five-eighths inches, meters shall be furnished only upon payment by the property owner of the increased cost thereof.

(b) All meters must be set in a clean, dry, sanitary place easily accessible. Meters will not be allowed in closets or other places that are kept locked or other places difficult to access.

(c) When it is impracticable to place the meter within the building it shall be placed in a meter box located approximately at the property line. The meter box shall be prefabricated, insulated and of sufficient size to allow access to the meter and shall be approved by the DPW supervisor. The cover shall be locking with the words "water meter" stamped clearly on the outside of approved design. The cost of the meter box shall be borne by the consumer and the manner of making payment therefor shall be determined by the council.

(d) The consumer will be held responsible for care and protection of the meter from freezing or damage by hot water and from injury by any person, and any damage which may occur to any water meter due to carelessness or neglect of the tenant, owner or agent of the property on which said water meter is placed shall be paid for by such person upon presentation of a statement of damages, and in the manner determined by the council.

(e) In case the consumer shall discover any defect or damage to the meter, he shall immediately notify the DPW supervisor who shall make the proper disposition to place the same in good condition.

(f) All persons are forbidden to interfere with or remove a water meter from any service connection.

(g) No person shall break, remove or tamper with or shall cause or suffer to be broken, removed or tampered with any seal which is placed on any meter or service box by an employee of the department of public works.

(h) No person shall place or cause or suffer to be placed any device which shall serve to allow any water to be used which does not pass through the meter.

(i) The department may require that all persons not the owners of property in which service is desired execute an application for service jointly with the owner of the premises:

(1) Binding both parties jointly and severally to the payment of all rates and charges imposed by this chapter or by resolution of the council, or the department may be that all persons not the owners of property upon which the service is desired place on deposit such sums as the council may designate by resolution, before service is rendered to such persons.

(2) Such sums shall be returned to the party or parties making the deposit upon return of the meter in

good condition and upon the payment in full of all rates and charges imposed by this division or by resolution of the council, and interest at the rate of five percent per annum shall be added to such sums provided they have remained upon deposit for one year or more.

(3) The department of public works shall have the right to use such portion of that sum to repair any meter damaged by reason of the use thereof, excepting inherent defects in such meter, and to pay any unpaid rates or charges for which the consumer may be liable, and the person making the deposit shall be required to pay such additional sums as shall be necessary to have on deposit at all times the sum required by the council.

(j) All rights, title and ownership of the meter shall be vested in the city.

(k) It shall be the duty of the department of public works to read all meters of the city periodically as directed by council, and thereupon the said department shall render a statement as soon as possible for the amount due as shown by the reading. Statements shall be payable as determined by the council, but in no event shall failure to receive a statement excuse any consumer for nonpayment thereof.

(Ord. No. B, § 5, 9-3-1935)

#### **Sec. 40-45. Maintenance of service.**

(a) Every person having service from the department of public works shall, at his own cost and expense, keep in repair the consumers' portion of the service. If the said consumers' portion of the service is permitted to remain out of repair the DPW supervisor may, after two days' prior notice in writing, shut off the water from said premises and whenever the water is so shut off it shall not be permitted to be again turned on until such pipes shall have been placed in proper repair and inspected by the DPW supervisor. The notice herein provided for may be served by personal service or by mail to the owner or occupant or the person in charge or control of the premises.

(b) All repairs to the street portion of the service shall be made only by employees of the department of public works under the supervision of the DPW supervisor. The cost of such repairs will be borne by the department of public works.

(Ord. No. B, § 6, 9-3-1935)

#### **Sec. 40-46. Access to property.**

(a) The officers of the department and any and every person delegated or authorized by the DPW supervisor shall have free entry and access to every part of any building, structure or premises at any reasonable hour whenever such entry and access is deemed necessary or advisable for the purpose of inspecting the pipes and fixtures connected with the department of public works. In case any person in charge or control of any such building, structure or premises into which any officer or properly authorized person shall desire entry or access, shall refuse to permit such entry or access or shall do or cause to be done any act or thing for the purpose of preventing such entry or access, the DPW supervisor may turn off the service from said building, structure or premises until notice shall have been given to the DPW supervisor, in writing, that such entry or access will be permitted or provided and until such entry and access has been accomplished. The DPW supervisor shall have the power and authority to require any pipes or fixtures to be replaced, removed or changed when the same are defective.



(b) No person shall in any way obstruct or cause to permit to be obstructed access to any shut off, curb stop, water meter or recording device connected with any water main or service pipes, by any means whatsoever. In the event that the owner, or person in charge or control of such building, structure or premises, shall after proper notification, refuse to remove such obstruction, the DPW supervisor may shut off the service until such obstruction shall be removed.

(Ord. No. B, § 7, 9-3-1935)

**Sec. 40-47. Hydrants, valves, etc.**

(a) No person shall take water from any fire hydrant, valve, faucet, pipe or any other opening connected with the department of public works, unless such person shall first make application for the use of water, and shall have paid the required deposit and received permission in writing from the DPW supervisor or unless such person is an employee of the city acting in the discharge of his duties as such.

(b) No person shall open or close or tamper with any valve, hydrant or curb stop without having first obtained permission in writing from the DPW supervisor.

(Ord. No. B, § 8, 9-3-1935)

**Sec. 40-48. Shutting off water service.**

(a) Any consumer may notify the DPW supervisor by two days' prior notice, in writing, that water service is no longer desired, in which case the DPW supervisor shall cause the meter to be removed from the premises. When it is desired to reinstall service, by the same consumer, the reconnection fee, as established by the city council, shall be paid by the consumer. The consumer shall pay a turn-off and/or turn-on fee as established by council resolution and amended from time to time.

(b) Where the water supply to any building, structure or premises shall have been cut off or stopped by or under the direction of the DPW supervisor, or in accordance with the provisions of this chapter, the water shall not again be supplied to such building, structure or premises, or permitted to be turned on therein, or thereto, unless a permit is first issued for that purpose by the DPW supervisor. The DPW supervisor shall in no case permit the water to be supplied to such building, structure or premises, until all fees and reconnection charges shall have been paid to the department of public works.

(c) If it shall be found that the water supply has been turned on, or into any such building, structure or premises, in violation of the provisions of this chapter, the DPW supervisor shall have the authority to order the severing of the service pipes by and through which the water is supplied to such building, structure or premises.

(d) Where service is severed in accordance with the provisions of this chapter, such severing or cutting off shall be done at the water mains or as near thereto as practicable, and no water shall again be supplied to such building, structure or premises, or be permitted to be turned on therein, or thereto, until the cost and expense of such severing and also any other unpaid rates that may be still outstanding, shall have been paid.

(e) If any payments for the use of water or any fees as determined by this division or by resolution of the city council remain unpaid for the period of 30 days after the due date, the DPW supervisor may cause

the water supply to be turned off and the meter removed from the premises until such time as such payments of fees together with any applicable reconnection fees shall have been fully paid.  
(Ord. No. B, § 9, 9-3-1935)

**Sec. 40-49. Fire protection.**

Whenever there is an alarm or fire in the city it shall be the duty of every consumer to stop all sprinkling and other needless use of water which may temporarily be stopped without damage to property, business or public health until such time as the danger from fire shall have passed.  
(Ord. No. B, §§ 10, 11, 9-3-1935)

**Sec. 40-50. Rates.**

(a) The water rates, or charges for water consumed, the discount for prompt payment of bills, the penalty for nonpayment, the fees for reconnection of service, the amount of the consumers' deposits, and the manner of making payment shall be established by resolution of the city council.

(b) Prior to the preparation of the annual city tax roll, the DPW supervisor shall certify to the council any rates or charges imposed by or pursuant to this division or by subsequent resolution of the council which remain unpaid. The council may by resolution direct the proper officials to spread these amounts against the real property on which the service was rendered and the amounts so spread shall become a lien of the same character and effect as the lien created by state and county taxes until paid.

**Sec. 40-51. Services outside city.**

Service will be supplied to consumers outside of the corporate limits of the city only after execution of an agreement between the consumer and the city, which agreement shall be executed in the manner directed by the council.  
(Ord. No. B, § 12, 9-3-1935)

**Secs. 40-52--40-75. Reserved.**

**DIVISION 3.**

**CROSS CONNECTION CONTROL**

**Sec. 40-76. Rules adopted.**

The city adopts by reference the water supply cross connection rules of the state department of environmental quality being R 325.11401 to R 325.11407 of the Michigan Administrative Code.  
(Ord. No. 02-02, § 1, 8-12-2002)

**Sec. 40-77. Inspections.**

It shall be the duty of the department of public works to cause inspections to be made of all properties served by the public water supply where cross connections with the public water supply is deemed possible. The

frequency of inspections and reinspections based on potential health hazards involved shall be as established by the department of public works and as approved by the state department of environmental quality.  
(Ord. No. 02-02, § 2, 8-12-2002)

**Sec. 40-78. Right of entry.**

The representative of the department of public works shall have the right to enter at any reasonable time any property served by a connection to the public water supply system of the city for the purpose of inspecting the piping system thereof for cross connections. On request, the owner, lessees, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross connection.  
(Ord. No. 02-02, § 3, 8-12-2002)

**Sec. 40-79. Discontinuation of service.**

The department of public works is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this division exists and to take such 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 cross connections have been eliminated in compliance with the provisions of this division.  
(Ord. No. 02-02, § 4, 8-12-2002)

**Sec. 40-80. Testing devices.**

All testable backflow prevention devices shall be tested initially upon installation to be sure that the device is working properly. Subsequent testing of devices shall be conducted at a time interval specified by the department of public works and in accordance with state department of environmental quality requirements. Only individuals approved by the department of public works shall be qualified to perform such testing. That individual shall certify the results of his testing.  
(Ord. No. 02-02, § 5, 8-12-2002)

**Sec. 40-81. Unsafe potable water supply labeling.**

The potable water supply made available on the properties served by the public water supply shall be protected from possible contamination as specified by this division and by the state and city plumbing code. 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

(Ord. No. 02-02, § 6, 8-12-2002)

**Sec. 40-82. Division as supplement.**

This division does not supersede the state plumbing code, but is supplementary to it.  
(Ord. No. 02-02, § 7, 8-12-2002)

**Sec. 40-83. Penalties.**

Any person or customer found guilty of violating any of the provisions of this division or any written order of the department of public works, in pursuance thereof, shall be deemed guilty of a civil infraction. Each day upon which a violation of the provisions of this division shall occur shall be deemed a separate and additional violation for the purpose of this division.

(Ord. No. 02-02, § 8, 8-12-2002)

**Secs. 40-84--40-109. Reserved.**

**DIVISION 4.**

**PRIVATE WATER WELLS**

**Sec. 40-110. Definitions.**

The following words, terms and phrases, when used in this division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Private well* means any well or excavation for purposes of taking water drilled or dug on privately owned land within the city.

(Ord. No. 23, § 1, 6-26-1967)

**Sec. 40-111. Permit required.**

No person shall dig or drill or continue existing use of a private well upon any lands within the city without having first secured a permit therefor from the city manager, nor shall any private well be extended or enlarged without having first secured a permit therefor.

(Ord. No. 23, § 2, 6-26-1967)

**Sec. 40-112. Application fee.**

Any person desiring to dig, drill, extend or enlarge any private well shall make application therefor to the city manager. Such application shall be in writing and shall contain all pertinent information concerning the size and location of the proposed well or extension thereof with a statement of the purpose for which water therefrom will be used. Such application shall be accompanied by a permit fee as set by council resolution and amended from time to time. The fee shall be returned in the event the permit is not granted.

(Ord. No. 23, § 3, 6-26-1967)

**Sec. 40-113. Hearing.**

(a) *Request for hearing.* If the city manager shall deny any applicant a permit, such applicant may request a hearing by the city council. The city council shall hold such hearing on said application as it may deem necessary, and may grant or deny issuance of a permit. If a permit is granted, the same shall contain such reasonable terms and conditions as the council may deem necessary, relative to the depth or size of such private

well, and the use and disposal of water taken therefrom.

(b) *Regulations.* When any permit is granted for the drilling of any private well, such well shall be drilled in strict conformity and compliance with regulations contained in such permit and such well, both at the time of drilling and subsequent thereto shall be subject to inspection at all reasonable times by the department of public works.

(c) *Permit contingent installation of meter.* The city manager may, as a condition precedent to granting of any permit, require installation on any private well of a meter measuring the amount of water taken from therefrom. Such meter, if so required, shall be installed by the department of public works, and all costs in connection therewith shall be borne by the owner of said premises and shall be an additional charge over and above the permit fee herein provided.

(d) *Disposition of waste.* No water from private wells within the city shall be permitted to enter the sewer system of said city unless the same first passes through a meter duly installed and approved by the department of public works.

(e) *Sewer charges.* Water from private wells deposited in the city sewer system shall be subject to the same charges as are provided for sewage treatment of water from the department of public works.

(f) *Revocation.* Any permit granted hereunder shall be revocable at the will of the manager. Provided that the manager, prior to revoking such permit, shall give to the owner or operator of such well at least 90 days' written notice of its intent to revoke such permit. Such notice shall be deemed sufficient if served on such owner personally, or by registered mail, or regular mail and by posting a copy thereof on the premises where such well is located in the event that personal service is not made. Use of water shall be discontinued forthwith on revocation of said permit, and said well shall be capped or otherwise treated as required by order of the council.

(g) *Purpose.* The purpose of this division is to provide for and protect the general public health and welfare of the people.

(h) *Violations and penalty.* Any person who violates, disobeys, neglects or refuses to comply with or who resists enforcement of any of the provisions of this division shall be guilty of a misdemeanor and upon conviction shall be subject to a fine of up to \$500.00 or by imprisonment of up to 90 days in county jail, or by both such fine and imprisonment in the discretion of the court.  
(Ord. No. 23, §§ 4--12, 6-26-1967)

**Secs. 40-114--40-139. Reserved.**

### **ARTICLE III.**

#### **SEWERS**

#### **DIVISION 1.**

#### **GENERALLY**

## **Sec. 40-140. Definitions.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter).

*Building drain* means that part of the lowest horizontal piping of a drainage system which receives discharge from drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

*Building sewer* means the extension from the building drain to the public sewer or other place of disposal.

*Capital costs* means the capital costs of the POTW, including principle, interest, and administrative costs on any debt of the system, a reasonable rate of return, a payment in lieu of taxes and other appropriate capital cost.

*Categorical standards* means national categorical pretreatment standards of pretreatment standard.

*Chemical oxygen demand (COD)* means a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. Also known as OC and DOC, oxygen consumer and dichromate oxygen consumed.

*Chlorine demand* means the difference between the amount of chlorine applied and the amount of free chlorine available at the end of the contact time, expressed in milligrams per liter.

*Combined sewer* means a sewer receiving both surface runoff and sewage.

*Commercial waste* means a liquid or water-carried waste material from a commercial business engaged in buying, selling, exchanging goods or engaging in said goods or service.

*Compatible pollutant* means a substance amenable to treatment in the wastewater treatment plant such as biochemical oxygen demand, pollutants identified in the NPDES permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutant to a substantial degree. Examples of such additional pollutants may include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils, and greases of animal or vegetable origin.

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

*Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the state.

*DPW supervisor* means the person designated to supervise the operation of the publicly owned treatment works, or his duly authorized representative.

*Garbage* means solid wastes from the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

*Grab sample* means 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.

*Incompatible pollutants* means any pollutant which is not a compatible pollutant.

*Industrial wastes* means the wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structure with these characteristics.

*Infiltration* means any waters entering the system from the ground through such means as, but not limited to, defective pipes, pipe joints, connections or manhole wells. Infiltration does not include and is distinguished from inflow.

*Infiltration/inflow* means the total quantity of water from both infiltration and inflow.

*Inflow* means any waters entering the system through such sources as, but not limited to, building downspouts, footing or yard drains, cooling water discharges, seepage lines from springs and swampy areas and storm drain cross connections.

*Interference* means the inhibition or disruption of the POTW treatment processes or operations, or that which contributes to a violation of any requirement of the NPDES permit, or that which reduces the efficiency of the POTW, or that which prevents sewage sludge use or disposal by the POTW.

*Lateral line* means that portion of the sewer system located under the street or within the street right-of-way from the property line to the trunk line and which collects sewage from a particular property for transfer to the trunk line.

*National categorical pretreatment standard of pretreatment standard* means any federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.

*National pollution discharge elimination system or NPDES permit* means the permit issued pursuant to section 402 of the Act (33 USC 1342).

*National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of 307(b) of the Act and 40 CFR 403.5.

*Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or

groundwater.

*New source* means any source, the construction or discharge of which, is commenced after the adoption of this article.

*Normal domestic sewage (NDS)* means the wastewater, which when analyzed, shows a daily average concentration of not more than 250 milligrams per liter (mg/l) of BOD; nor more than 250 mg/l of suspended solids; nor more than 50 mg/l of fats, oils, and grease; nor more than 40 mg/l of total kjeldahl nitrogen, nor more than 13 mg/l of phosphorus.

*Operation and maintenance* mean all work, materials, equipment, utilities, and other effort required to operate and maintain the POTW consistent with adequate treatment of wastewater to produce an effluent in compliance with the NPDES permit and other applicable state and federal regulations, and includes the cost of replacement.

*Owner* means the owners of the premises or lesser estate therein, a mortgagor or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, or other person in control or possession of a building or premises.

*Pollutant* means any of the various chemicals, substances and refuse materials such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, and industrial, municipal and agricultural wastes which impair the purity of the water or soil.

*Pretreatment or treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or 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 the 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 403.6(d).

*Private sewer lines* means all service lines and equipment for the disposal of sewage installed or located on any private property, from the property line, to and including any structure or facility which exists on the property.

*Properly shredded garbage* means the wastes from the preparation, cooking and dispensing of food that has been shredded to such degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.

*Publicly owned treatment works (POTW)* means the complete wastewater collection, treatment, and disposal system of the city, including all structures, land, and equipment used for those purposes. It 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 POTW.

*Replacement* means the replacement in whole or in part of any equipment, appurtenances and accessories of the POTW during its useful life to ensure continuous treatment of wastewater in accordance with the NPDES permit and other applicable state and federal regulations.



*Sanitary sewer* means a sewer which carries sewage and to which stormwaters, surface waters, and groundwaters are not intentionally admitted.

*Sewage* means a combination of the water-carried wastes from any structure, residence, building, institution or industrial establishment, together with such groundwaters as may be present.

*Sewer* means a pipe or conduit for carrying sewage.

*Sewer service charge* means the sum of applicable user charges, surcharges and capital charges.

*Slug load* means any substance released in a discharge at a rate and/or concentration which causes interference to a POTW.

*Storm sewer* or *storm drain* means a sewer which carries stormwaters and surface waters and drainage, but excludes sewage and polluted industrial wastes.

*Stormwater* means any flow occurring during or following any form of natural precipitation and resulting therefrom.

*Suspended solids* means 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.

*Toxic pollutant* means any pollutant or combination of pollutants which is or can potentially be harmful to public health or environment including those listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provisions of the CWA 307(a) or other acts.

*Trunk line* means the main sewer line located under any street or within any street right-of-way which collects and transmits the sewage of the various properties served by the sewer system.

*Uncontaminated industrial waste* means wastewater which has not come into contact with any substance used in or incidental to industrial processing operations and to which no chemical or other substance has been added.

*User* means any person who contributes, causes or permits the contribution of wastewater into the POTW and/or the owner or occupant of any property from which a discharge is made.

*User charge* means a charge levied on users of a treatment works for the cost of operation and maintenance of sewerage works pursuant to section 204(b) of PL 92-500 and includes the cost of replacement, as defined by the EPA.

*User class* means the kind of user connected to sanitary sewers, including, but not limited to, residential, industrial, commercial, institutional, and governmental.

*Commercial user* means an establishment listed in the office of management and budget's "Standard Industrial Classification Manual" (SICM), involved in a commercial enterprise, business or service which, based on a determination by the city, discharges primarily segregated domestic wastes or

wastes from sanitary conveniences and which is not a residential user or an industrial user.

*Governmental user* means any federal, state or local governmental user of the POTW.

*Industrial user* means any user of the wastewater system that:

- (1) Is identified in the Standard Industrial Classification Manual, 1982, office of management and budget, as amended and supplemented under one of the following divisions:
  - a. Division A--Agriculture, forestry, and fishing;
  - b. Division B--Mining;
  - c. Division D--Manufacturing;
  - d. Division E--Transportation; communications; electric, gas, and sanitary services;
  - e. Division I--Services; or
- (2) Discharges wastewater to the POTW which contains toxic pollutants or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to contaminate the sludge of any municipal systems, or to injure or to interfere with any sewage treatment process; or which constitutes a hazard to humans or animals, creates a public nuisance, or creates any hazard in or has an adverse effect on the waters receiving any discharge from the treatment works; or
- (3) Discharges wastewater containing pollutants which may interfere with the treatment process, be toxic or incompatible, interfere with the processing or disposal of the sludge, or may have an adverse effect on the receiving stream.

*Institutional user* means an establishment listed in the SICM involved in a social, charitable, religious, or education function which, based on a determination by the city, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.

*Residential user* means a user of the treatment work whose premises or buildings are used primarily as a domicile for one or more persons, including dwelling units such as detached, semidetached and row houses, mobile homes, apartments, or permanent multifamily dwellings (transit lodging is not included, as it is considered commercial).

*Wastewater* means the liquid and water carried wastes from any structure, dwelling, building, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is discharged into or permitted to enter the POTW.

(Ord. No. 91-2, § 1-1, 8-12-1991)

**Secs. 40-141--40-163. Reserved.**

## **DIVISION 2.**

### **REQUIREMENTS TO HOOK UP; DISCHARGE TO NATURAL OUTLETS PROHIBITED WITHOUT PERMIT; SEPTIC SYSTEM; PERMIT REQUIRED; UNSANITARY DEPOSITS**

#### **Sec. 40-164. Requirements to hook up.**

The owner or occupant of any residence, building or properties used for human occupancy, employment, recreation or other purposes, and abutting on any street, alley, or right-of-way in which there is now located or may in the future be located a public sanitary or combined sewer, is hereby required at his expense to install suitable sewage facilities therein, and to connect such facilities directly with the public sewer in accordance with the provisions of this article, within 90 days after the date of written notice to do so.  
(Ord. No. 91-2, § 2-1, 8-12-1991)

#### **Sec. 40-165. Discharge to natural outlet prohibited without permit.**

It shall be unlawful, when sewage and/or treatment facilities are available, to discharge to any natural outlet any sanitary sewage, industrial wastes, to other polluted waters, unless specifically permitted by the county health department and the department of natural resources.  
(Ord. No. 91-2, § 2-2, 8-12-1991)

#### **Sec. 40-166. Septic system; permit required.**

It shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage, unless specifically permitted by the county health department and with the permission of the manager.  
(Ord. No. 91-2, § 2-3, 8-12-1991)

#### **Sec. 40-167. Unsanitary deposits.**

It shall be unlawful for any person to place, deposit, or permit to be deposited in any manner upon public or private property any human or animal excrement, garbage or other objectionable waste.  
(Ord. No. 91-2, § 2-4, 8-12-1991)

#### **Secs. 40-168--40-187. Reserved.**

## **DIVISION 3.**

### **CONDITIONS TO DISCHARGE**

#### **Sec. 40-188. Conditions to issuing permit.**

The city may, as a condition to issuing a permit to discharge wastewater to the POTW:

- (1) Set unit charges or a schedule of user charges and fees for the wastewater to be discharged to the

POTW.

- (2) Limit the average and maximum wastewater constituents and characteristics.
- (3) Limit the average and maximum rate and time of discharge or make requirements to flow regulations and equalization.
- (4) Require the installation and maintenance of inspection and sampling facilities.
- (5) Require pretreatment of wastewater discharges.
- (6) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedules.
- (7) Establish compliance schedules.
- (8) Require the submission of reports, including technical reports or discharge reports.
- (9) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the manager, and affording the manager access thereto, and copying thereof.
- (10) Require notification to the manager of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (11) Require notification of slug discharge.
- (12) Require other reasonable and necessary conditions to ensure compliance with this article.
- (13) Require waste treatment facilities, process facilities, waste streams, or other potential waste problems to be placed under the specific supervision and control of persons who have been certified by an appropriate state agency as properly qualified to supervise such facilities.
- (14) Require records and file reports to be maintained on the final disposal of specific liquids, solids, sludges, oils, radioactive materials, solvents, or other wastes.
- (15) Establish any other reasonable and necessary conditions for use of the POTW.

(Ord. No. 91-2, § 3-1, 8-12-1991)

#### **Sec. 40-189. Inspection and sampling.**

The DPW supervisor shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the DPW supervisor or his representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination,

records copying or performing any of their duties. The city, state department of natural resources and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspections, compliance monitoring and/or metering operations. Where a user has security measures in force which would require security clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city, state department of natural resources and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(Ord. No. 91-2, § 3-2, 8-12-1991)

#### **Sec. 40-190. Pretreatment requirements; publication of users not in compliance.**

(a) Industrial users shall provide necessary wastewater treatment and pretreatment as required to comply with this article and shall achieve compliance with all national categorical pretreatment standards within the time limitations as specified by the Federal Pretreatment Regulations and as required by the city. Any facilities required to pretreat wastewater to a level acceptable to the city shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the city prior to the user's initiation of the changes.

(b) The city shall annually publish in a local newspaper a list of the users which were not in compliance with any pretreatment requirements of standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users during the same 12 months.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or state department of natural resources upon request.

(Ord. No. 91-2, § 3-3, 8-12-1991)

#### **Sec. 40-191. Confidential information.**

(a) Information and data on a user, obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections, shall be available to the public or other governmental agency without restriction unless, the user specifically requests and is able to demonstrate to the satisfaction of the city, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user and the information or documents are exempt from disclosure under the Michigan freedom of information act.

(b) When requested by the person furnishing a report, the portion of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public if the report is exempt from disclosure under the Michigan freedom of information act, but shall be made available upon written request to governmental agencies for uses related to this article, the national pollutant discharge elimination system (NPDES) permit, or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(Ord. No. 91-2, § 3-4, 8-12-1991)

**Secs. 40-192--40-220. Reserved.**

#### **DIVISION 4.**

##### **PRIVATE SEWAGE DISPOSAL**

###### **Sec. 40-221. Requirements and conditions.**

- (a) Where a public sewer is not available as described in section 40-164, the building sewer shall be connected to an approved private sewage disposal system.
- (b) The construction, use and maintenance of a private sewage disposal system shall comply with all applicable requirements of the county health department and state.
- (c) Before constructing a private sewage disposal system the owner shall first obtain permission from the manager.
- (d) All persons receiving a permit for a private sewage disposal system shall provide the manager with copies of all final approved inspection reports issued by the county health department.
- (e) No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.
- (f) At such time as a public sewer becomes available to a property served by a private sewage disposal system as described in section 40-164, a direct connection shall be made to the public sewer in compliance with this article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned for sanitary use and filled with a suitable material.
- (g) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times.

(Ord. No. 91-2, § 4-1, 8-12-1991)

**Secs. 40-222--40-250. Reserved.**

#### **DIVISION 5.**

##### **SEWER CONNECTIONS; PERMIT REQUIRED; DUTY TO MAINTAIN**

###### **Sec. 40-251. No connection without permit.**

No person shall make any connections with or opening into, use, alter or disturb any public sewer or the POTW, without first obtaining a written permit from the DPW supervisor. No sewer shall be covered until after it has been inspected and approved by the DPW supervisor.

(Ord. No. 91-2, § 5-1, 8-12-1991)

**Sec. 40-252. Permit procedure.**

The owner or his agent shall make application for a sewer permit on a form furnished by the city. The permit application shall be supplemented by any plans, specifications, or other information required by this article or considered pertinent in the judgment of the DPW supervisor. A tap fee, which shall be set from time to time by the city council, shall be paid to the city treasurer at the time the application is filed. A plumbing permit is also required. If a street opening is required to make the lead connection, an additional attachment to the permit must be completed. All sewer taps will be to the property line only.

(Ord. No. 91-2, § 5-2, 8-12-1991)

**Sec. 40-253. Costs, indemnification, responsibility to clean, maintain, and repair.**

All costs, expenses and liabilities incident to the installation and connection of the building sewer to the public sewer shall be borne by the property owner. The property owner shall indemnify and save harmless the city from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

- (1) It shall be the duty of each property owner to maintain, clean and repair private sewer lines and laterals serving said property at his own expense as needed to keep said lines free and clear of obstruction and in good working order.
- (2) It shall be the duty of the city to maintain, clean and repair as needed, at city expense, all truck sewer lines. The city shall not be responsible for cleaning, repair or maintenance of private sewers or laterals serving individual properties.
- (3) If any property owner fails to maintain a private sewer line or lateral as required by this article, in addition to the other penalties prescribed, the sewer may be declared a public nuisance by the city and the defect may be corrected by the city. Any costs so incurred by the city shall be assessed against the property and become a lien on the property if not paid within 90 days.

(Ord. No. 91-2, § 5-3, 8-12-1991)

**Sec. 40-254. Separate connections.**

A separate and independent building sewer shall be provided for every building, the exception being if one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, yard or driveway. In this instance, the building sewer from the front building may be extended to the rear building.

(Ord. No. 91-2, § 5-4, 8-12-1991)

**Sec. 40-255. Old building sewers.**

Old building sewers may be used in connection with new buildings only when they are found, in examination and test by the DPW supervisor, to meet all requirements of this article.

(Ord. No. 91-2, § 5-5, 8-12-1991)

**Sec. 40-256. Building sewer; requirements.**

(a) The building sewer shall be constructed in accordance with procedures and materials approved by the DPW supervisor.

(b) The size and slope of the building sewer shall be subject to approval by the DPW supervisor, but in no event shall the diameter be less than four inches. The slope of such four-inch pipe shall not be less than one-quarter inch per foot, unless otherwise permitted. The slope of pipe, the diameter of which is six inches or more, shall be not less than one-eighth inch per foot unless otherwise permitted.

(c) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet of any bearing wall, which might thereby be weakened. The depth shall be sufficient to afford protection from frost. The building sewer shall be laid at a uniform grade. The line shall be straight or laid with properly curved pipe and fittings. Changes in direction greater than 45 degrees shall be provided with cleanouts accessible for cleaning.

(d) In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drain shall be lifted by artificial means approved by the DPW supervisor, and discharged to the building sewer.

(e) All joints and connections shall be made gastight and watertight.

(f) No sewer connection will be permitted unless there is capacity available in all downstream sewers, lift stations, force main and the sewage treatment plant, including capacity for treatment of BOD and suspended solids.

(g) All newly constructed building sewers shall have a properly sized cleanout at the head of said sewer that is accessible at all times. This cleanout shall allow access of sewer cleaning equipment of a size equivalent to the size of the building sewer.

(h) All sewers shall be constructed in accordance with the latest edition of the "Ten State Standards," and any other applicable laws or ordinances, or regulations of the state, county or city.

(i) The applicant for the building sewer permit shall notify the DPW supervisor when the building sewer is ready for inspection and connection to the public sewer.

(j) All excavation for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.  
(Ord. No. 91-2, § 5-6, 8-12-1991)

**Secs. 40-257--40-275. Reserved.**

## **DIVISION 6.**

### **USE OF PUBLIC SEWERS**

**Sec. 40-276. 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 whether or not the user is subject to the national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements. The city shall refuse to accept any wastes which will cause the POTW to violate its NPDES discharge limits. A user may not contribute the following substances to the POTW.

- (1) Any liquids, solids, or gases which by reason of their nature and quantity are, or may be, sufficient either along 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. Prohibited materials include, but are not limited to:
  - a. Gasoline;
  - b. Kerosene;
  - c. Naphtha;
  - d. Benzene;
  - e. Toluene;
  - f. Zylene;
  - g. Ethers;
  - h. Alcohols;
  - i. Ketones;
  - j. Aldehydes;
  - k. Peroxides;
  - l. Chlorates;
  - m. Perchlorates;
  - n. Bromates;
  - o. Carbides;
  - p. Hydrides; and
  - q. Sulfides.

- (2) Solid or viscous substances which may cause obstruction to the flow in a sewer other interference with the operation of the wastewater treatment facilities such as, but not limited to:
- a. Grease;
  - b. Garbage with particles greater than one-half inch in any dimension;
  - c. Animal guts or tissues;
  - d. Paunch manure;
  - e. Bones, hair, hides or fleshings;
  - f. Entrails;
  - g. Whole blood;
  - h. Feathers;
  - i. Ashes, cinders, sand, spent lime, stone or marble dust;
  - j. Metal;
  - k. Glass;
  - l. Straw;
  - m. Shavings;
  - n. Grass clippings;
  - o. Rags;
  - p. Spent grains;
  - q. Spent hops;
  - r. Wastepaper;
  - s. Wood;
  - t. Plastics;
  - u. Gas;

- v. Tar;
  - w. Asphalt residues, residues from refining, or processing of fuel or lubricating oil;
  - x. Mud; or
  - y. Glass grinding or polishing wastes.
- (3) Any wastewater having a pH less than 6.5 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, 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, or exceed the limitation set forth in a categorical pretreatment standard. The prohibition of toxic pollutants will conform to section 307(a) of the clean water acts, as amended.
  - (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 reclamation and reuse or to interfere with the reclamation process or with the spray irrigation and land application process.
  - (7) Any substance which will cause the POTW to violate its NPDES permit or the receiving water quality standards or spray irrigation and land application requirements or standards.
  - (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 resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
  - (10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which will cause interference to the POTW.
  - (11) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the manager in compliance with applicable state or federal regulations.
  - (12) Any wastewater which causes a hazard to human life.
  - (13) Any unpolluted water including, but not limited to, stormwater, groundwater, roof water, or

noncontact cooling water.

- (14) Any waters or wastes containing suspended solids or any constituent of such character and quantity that unusual attention or expense is required to handle such materials at the POTW.
- (15) Any waste from individual sewage disposal systems except at the POTW treatment plant as provided in division 7 of this article, except that waste from any individual sewage disposal system may be disposed of directly into a sanitary sewer upon entering into an agreement with the city, which agreement shall specify the site of disposal, sewage disposal charge and such other conditions as may be required to satisfy the sanitation and health requirements of the city. For the purpose of this subsection, an individual sewage disposal system is defined to include every means of disposing of industrial, commercial, household, domestic or other water-carried sanitary waste or sewage other than a public sanitary sewer.
- (16) Any sludge, precipitate or congealed substance resulting from an industrial or commercial process, or resulting from the pretreatment of wastewater or air pollutants.

(Ord. No. 91-2, § 6-1, 8-12-1991)

**Sec. 40-277. Specific pollutant limitations; rejection; pretreatment, cost.**

(a) No person shall discharge wastewater containing in excess of the following amounts without receiving prior written permission from the city.

- (1) A BOD of 250 mg/l.
- (2) A COD of 400 mg/l.
- (3) Suspended solids of 250 mg/l.
- (4) Fats, oils, and grease of 50 mg/l.
- (5) Total kjeldahl nitrogen of 40 mg/l.
- (6) Phosphorus of 13 mg/l.

Nor shall any person discharge any pollutant listed in the Michigan Water Resources Commission Critical Materials Register or the U.S. EPA priority pollutant list as issued from time to time.

(b) If any waters are discharged or proposed to be discharged to the public sewers, which wastes contain the substances or possess the characteristics enumerated in subsection (a) of this section, or which in the judgment of the DPW supervisor may have a deleterious effect upon the POTW, processes, equipment, or receiving waters, groundwaters, or which otherwise create a hazard to life or constitute a public nuisance, the city may:

- (1) Reject the wastes.

- (2) Require pretreatment to the level defined as "normal domestic sewage."
- (3) Require control over the quantities and rates of discharge.
- (4) Require payment to cover the added cost, of handling and treating the wastes, not covered by standard sewer charges.
- (5) Require new industrial customers or industries with significant changes in strength or flow to submit prior information to the city concerning the proposed flow.

(c) If the city permits the pretreatment or equalization of waste flows, the design and installation of the plant and equipment shall be subject to the review and approval of the DPW supervisor and shall be subject to the requirements of all applicable codes, regulations and laws.  
(Ord. No. 91-2, § 6-2, 8-12-1991)

#### **Sec. 40-278. National categorical pretreatment standards.**

Upon the promulgation of the national categorical pretreatment standards for a particular subcategory, the pretreatment standard, if more stringent than limitations imposed under this article for sources in the subcategory shall be considered part of this article. The manager shall notify all affected users of the applicable reporting requirements.  
(Ord. No. 91-2, § 6-3, 8-12-1991)

#### **Sec. 40-279. State requirements.**

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those contained in this article.  
(Ord. No. 91-2, § 6-4, 8-12-1991)

#### **Sec. 40-280. Right of revisions.**

The city reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary.  
(Ord. No. 91-2, § 6-5, 8-12-1991)

#### **Sec. 40-281. Discharge of stormwater prohibited.**

- (a) No user shall discharge or cause to be discharged any stormwater, surface water, groundwater, water from footing drains, or road water to any sanitary sewer or sewer connection. Any premises connected to a storm sewer shall comply with county, state, and federal requirements as well as those of the city.
- (b) Downspouts and roof leaders shall be disconnected from sanitary sewers within six months of the date of the ordinance from which this article is derived. If this is not done, the city shall perform this work and bill the user.
- (c) Stormwater, groundwater and all other unpolluted drainage shall be discharged to such sewers as

are specifically designed as combined sewers or storm sewers. Discharge of cooling water or unpolluted process water to a natural outlet shall be approved only by the state water resources commission.  
(Ord. No. 91-2, § 6-6, 8-12-1991)

**Sec. 40-282. Grease, oil, and sand interceptors.**

Grease, oil, and sand interceptors shall be provided when in the opinion of the DPW supervisor they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers, which when bolted in place shall be gastight and watertight. When installed, all grease, oil, and sand interceptors or flow equalizing facilities shall be maintained by the owner at his expense, in continuously efficient operation at all times.

(Ord. No. 91-2, § 6-7, 8-12-1991)

**Sec. 40-283. Preliminary treatment for certain discharges.**

(a) Before the discharge into the POTW of any waters or wastes containing:

(1) The characteristics described in section 40-277; or

(2) An average daily flow greater than two percent of the average daily sewage flow of the POTW, or having a rate of flow (gallons per day) greater than ten percent of the average daily flow for a period of one hour or more.

(b) The DPW supervisor may require the user, at his expense, to provide such preliminary treatment as may be necessary to reduce objectionable characteristics of constituents to within the maximum limits provided for in section 40-277, or to control the quantities and rates of discharge of such waters or wastes.

(Ord. No. 91-2, § 6-8, 8-12-1991)

**Sec. 40-284. Additional charges for certain discharges.**

Where the strength of sewage from an industrial, commercial, governmental or institutional establishment exceeds the parameters specified in sections 40-277 and 40-283, and where such wastes are permitted to be discharged to the sewer system by the DPW supervisor, an added charge, as set for in division 7 of this article, will be made against the user according to the strength of such wastes.

(Ord. No. 91-2, § 6-9, 8-12-1991)

**Sec. 40-285. Control and monitoring manhole.**

When required by the city, the owner of any property serviced by a building sewer carrying industrial or commercial wastes shall install a suitable control manhole, together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the water. Such manhole, when required, shall be accessible and safely located and shall be constructed in accordance with

plans approved by the DPW supervisor. The manhole shall be installed by the owner at his expense and shall be maintained by the owner so as to be safe and accessible at all times.  
(Ord. No. 91-2, § 6-10, 8-12-1991)

**Sec. 40-286. Measurement standards.**

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this article shall be determined in accordance with the most recent edition of "Standard Methods for the Examination of Water and Sewage," and shall be determined at the control manhole provided for, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected.  
(Ord. No. 91-2, § 6-11, 8-12-1991)

**Sec. 40-287. Methods of measuring flow.**

To determine the sewage flow from any establishment, the DPW supervisor may use one of the following methods:

- (1) The amount of water supplied to the premises by the city or a private water company as shown upon the water meter if the premises are metered.
- (2) If such premises are used for an industrial or commercial purpose of such a nature that the water supplied to the premises cannot be entirely discharged into the sewer system, the estimate of the amount of sewage discharged into the sewer system may be made by the DPW supervisor from the water, gas or electric supply.
- (3) The number of gallons of sewage discharged into the sewer system as determined by measurements and samples taken at a manhole installed by the owner of the property served by the sewer system at his own expense in accordance with the terms and conditions of the permit issued by the city.
- (4) A figure determined by the DPW supervisor by any combination of the foregoing or by any other equitable method.

(Ord. No. 91-2, § 6-12, 8-12-1991)

**Sec. 40-288. Excessive discharge.**

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, or in any other pollutant-specific limitation developed by the city or state. Dilution may be an acceptable means of complying with certain of the prohibitions set forth in section 40-276, upon prior written approval of the DPW supervisor.  
(Ord. No. 91-2, § 6-13, 8-12-1991)

**Sec. 40-289. Accidental discharge.**

(a) *Protection from an accidental discharge.* When required by the city, a user shall provide protection from accidental discharge of prohibited materials or other substance regulated by this article. Facilities to prevent accidental discharge or prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the DPW supervisor for review, and shall be approved by the DPW supervisor before construction of the facility. If required by the city, a user who commences contribution to the POTW, after the effective date of the ordinance from which this article is derived, shall not be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the city. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.

(b) *Accidental discharge.* When an accidental discharge occurs:

(1) *Immediate notice to city.* In the case of an accidental discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(2) *Written notice.* Within five days following an accidental discharge, the user shall submit to the manager a detailed written report describing the nature of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property: nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this division or other applicable law.

(3) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the user to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

(Ord. No. 91-2, § 6-14, 8-12-1991)

#### **Sec. 40-290. Separate agreement to discharge.**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any user whereby waste of unusual strength or character may be accepted by the city, subject to payment therefor by the user, provided such waste will not damage the POTW, or the receiving waters. No special agreement shall be entered into which is in conflict with state or federal law or regulation.

(Ord. No. 91-2, § 6-15, 8-12-1991)

**Secs. 40-291--40-313. Reserved.**

### **DIVISION 7.**

#### **DISPOSAL AT POTW TREATMENT PLANT**



**Sec. 40-314. Permission required.**

Waste from private sewage systems may be accepted with permission of the DPW supervisor at the POTW treatment plant. No waters or wastes described in section 40-276, shall be disposed of at the POTW treatment plant.

(Ord. No. 91-2, § 7-1, 8-12-1991)

**Sec. 40-315. Basis of rate for disposal of POTW.**

Treatment rates for disposal at the POTW treatment plant shall be determined in accordance with the user charge system.

(Ord. No. 91-2, § 7-2, 8-12-1991)

**Secs. 40-316--40-333. Reserved.**

**DIVISION 8.**

**PROTECTION FROM DAMAGE**

**Sec. 40-334. Damage prohibited.**

No unauthorized person shall enter or maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the POTW.

(Ord. No. 91-2, § 8-1, 8-12-1991)

**Secs. 40-335--40-356. Reserved.**

**DIVISION 9.**

**MUNICIPAL LIABILITY; USER'S RESPONSIBILITY**

**Sec. 40-357. City not responsible for service interruptions.**

The city shall not be responsible for interruptions of service due to natural calamities, equipment failures, or actions of the system users. It shall be the responsibility of the user that all connected equipment remain in good working order so as not to cause disruption of service of any sewer or treatment plant equipment.

(Ord. No. 91-2, § 9-1, 8-12-1991)

**Secs. 40-358--40-387. Reserved.**

**DIVISION 10.**

**POWER AND AUTHORITY OF INSPECTORS**

**Sec. 40-388. Authorized inspectors, administrative warrants.**

The manager and other duly authorized employees of the city bearing proper identification, shall be permitted to enter upon premises discharging to the POTW as may be necessary for the purposes of inspection, observation, measurement, sampling and testing in accordance with provisions of this article. If a user refuses to grant entry, the manager may seek an administrative warrant for an inspection from any court authorized to issue search warrants. In an emergency which created an immediate and substantial danger to persons or property, the premises may be inspected without permission or a warrant.

(Ord. No. 91-2, § 10-1, 8-12-1991)

**Secs. 40-389--40-419. Reserved.**

**DIVISION 11.**

**ENFORCEMENT ORDERS**

**Sec. 40-420. Authority of DPW supervisor.**

If the DPW supervisor determines that a user has violated any provision of this article, the DPW supervisor may issue an order to take action deemed appropriate under the circumstances, including, but not limited to, the following:

- (1) *Immediate cease and desist order.* The DPW supervisor may issue an order to cease and desist from discharging any wastewater, incompatible pollutants, or illegal discharge. Such order shall have immediate effect where the actual or threatened discharge to the system presents, or may present, imminent or substantial endangerment to the health or welfare of persons, to the environment, or causes interference with the operation of the POTW. If action is not taken immediately to correct the discharge, the DPW supervisor will implement whatever action is necessary to halt said discharge, including termination of service. Any penalties, fines, expenses or losses incurred as applicable will be assessed through provisions of section 40-446(b).
- (2) *Order to appear and show cause.* In cases other than those defined above, the DPW supervisor may issue an order to appear and show cause at a hearing held to determine why an order to cease and desist by a certain time and date should not be issued. The proposed time for remedial action shall be specified in the order to show cause. Such order may also contain such conditions deemed appropriate by the DPW supervisor.

(Ord. No. 91-2, § 11-1, 8-12-1991)

**Sec. 40-421. Service of order.**

The order to appear and show cause shall be served upon the user by person, service or in lieu thereof by certified mail, return receipt requested, to the user's last known address.

(Ord. No. 91-2, § 11-2, 8-12-1991)

**Sec. 40-422. Hearing procedures.**

(a) The hearing shall be conducted by the city manager or a hearing officer appointed by him, who shall render a written decision determining whether the user's service shall be terminated and stating reasons therefore. Admissibility of evidence at the hearing shall be within the discretion of the manger or officer.

(b) The user shall be entitled to be represented at the hearing in person or by an attorney at his own expense and shall be entitled to examine witnesses for the city and present evidence on his own behalf. A record shall be made of the proceedings, but such record need not be verbatim.

(Ord. No. 91-2, § 11-3, 8-12-1991)

**Sec. 40-423. Post-termination hearing.**

The user, whose service, is terminated without prior hearing under section 40-420(1), may request such a hearing as described in section 40-422, to permit him to show why his service should not have been terminated and should be resumed. Such requests shall be granted, but service will not be resumed unless so ordered by the city manager or hearing officer.

(Ord. No. 91-2, § 11-4, 8-12-1991)

**Secs. 40-424--40-444. Reserved.**

**DIVISION 12.**

**RATES AND CHARGES FOR SERVICE**

**Sec. 40-445. Rates established; basis for computation.**

(a) *Requirement to pay.* Each user of the POTW shall pay the rate and charges as set forth in the user charge system.

(b) *Basis for user charges.* The user charge system shall be set so that each user of user class pays its proportionate share of operation and maintenance including replacement, costs of the POTW, based on the user's proportionate contribution to the total wastewater loading from all users or user classes. To ensure a proportionate distribution of operation and maintenance costs to each user or user class the user's contribution shall be based on factors such as strength, volume, and delivery flow rate characteristics.

(c) *Basis for capital charges.* The capital charges shall be set so each user or user's class pays its reasonable share of the capital cost, which may include a reasonable rate of return and a payment in lieu of taxes.

(Ord. No. 91-2, § 12-1, 8-12-1991)

**Sec. 40-446. Rate for wastewater service.**

(a) *User charge system.* Rates for wastewater service shall be as set forth in the user charge system for each user class. The rate shall include charges for operation and maintenance including replacement costs, administration, and capital costs. There shall also be an additional charge or surcharge paid by the user when wastewater is permitted to be discharged to the POTW which exceeds the parameters of sections 40-277 to 40-283. The surcharge shall be based upon the increased costs to treat such wastewaters as determined in the user

charge system.

(b) *Extra charges.* Surveillance monitoring and extra charges are as follows.

- (1) Time and material charges, as determined by the DPW supervisor, shall be used for surveillance costs and monitoring costs when required of a user.
- (2) In addition to the above charges, each user shall pay the charges for miscellaneous service, as determined by the DPW supervisor.
- (3) Any user that is responsible for discharging prohibited material into the POTW shall be charged the actual expense incurred by the city for the handling, treating, and/or removal of said material from the system.
- (4) Any user that is responsible for damage to the POTW shall be charged the full cost of repair of the damage. The cost shall include, but is not limited to, labor, equipment, materials, administrative expense, interest on borrowed funds, engineering, legal, or other professional fees or expenses charged to the city, and any or all fines, costs, penalties or damages imposed upon the city by the United States, the state or any court or administrative agency.
- (5) Any user that is the subject of any enforcement action under this article shall be charged, and shall pay the cost incurred by the city for the enforcement action, including actual attorneys' fees and costs.

(c) *Recovery of cost of pretreatment program from industrial users.* The costs incurred by the city for the implementation and administration of the pretreatment program may be levied on industrial users based upon the characteristics and volume of pollutants discharged by the industrial users. The city council shall establish the charges from time to time.

(d) *Rates for users outside of the city.* The rates for any user located outside of the city shall be as set forth in the agreement between the city and that user for wastewater service. User charges shall be the same for users located inside and outside the city. Capital charges may be higher for users located outside the city than inside the city.

(e) *Annual notification of users.* Users shall be notified at least once per year how much each user class is being charged for its proportionate share of operation, maintenance, and replacement costs, and capital charges, as required by EPA regulations.

(Ord. No. 91-2, § 12-2, 8-12-1991)

#### **Sec. 40-447. Annual review and periodic revision.**

The user charge system shall be reviewed annually and revised periodically to reflect the actual operation and maintenance including replacement costs, administrative, surcharge, and capital costs and to make sure that each user class pays its proportionate share of those costs. Rates determined by this section shall be adopted annually by city council rate resolution.

(Ord. No. 91-2, § 12-3, 8-12-1991)

**Sec. 40-448. Revenue requirement.**

The rates and charges shall be set so that the user charge system generates sufficient revenue to offset all of the costs incurred in the operation of the POTW.  
(Ord. No. 91-2, § 12-4, 8-12-1991)

**Sec. 40-449. Excess revenue adjustment.**

Any excess revenues collected from a class of users shall be applied to the costs of operation and maintenance attributable to that class for the next year and the rate shall be adjusted accordingly.  
(Ord. No. 91-2, § 12-5, 8-12-1991)

**Sec. 40-450. Toxic pollutants.**

Any user that discharges toxic pollutants which cause an increase in the cost of operation and maintenance or managing the effluent or disposal of the sludge of the POTW shall pay such increased cost.  
(Ord. No. 91-2, § 12-6, 8-12-1991)

**Sec. 40-451. Charges as lien; collection by suit; discontinuing wastewater service for failure to pay.**

(a) The charges for wastewater service are hereby recognized to constitute a lien on the premises receiving such service as permitted by Public Act No. 178 of 1939, as amended. This lien shall become effective immediately upon providing wastewater service to the premises, but shall be not enforceable for more than three years after it becomes effective. Whenever any such charges against any property shall be delinquent for three months, the city officials in charge of the collection may certify to the tax assessing officer of the city the fact of such delinquency, whereupon such charge shall be entered upon the next roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general city taxes against such premises are collected and the lien thereof enforced.

(b) If a charge for wastewater service is not paid within 30 days after the billing, and after the customer has been given notice and an opportunity to be heard as provided by law, all water service may be shut off and discontinued to the customer owning or liable for such charge. Water service that is shut off shall not be restored until all sums owing have been paid in full, including a collection fee and an appropriate security deposit, as may be set from time to time by the city council.

(c) At its option, the city may, in addition to the remedies in subsections (a) and (b) of this section, bring suit in an appropriate court for the collection of any wastewater service charge which has not been paid within 30 days after the billing date. The production of the meter record or cost record shall be prima facie evidence of the liability to pay the amount shown to be due.  
(Ord. No. 91-2, § 12-7, 8-12-1991)

**Secs. 40-452--40-470. Reserved.**

**DIVISION 13.**

## **RECORDS RETENTION**

### **Sec. 40-471. Records retention for three years.**

All users subject to this article shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereto, relating to monitoring, sampling and chemical analyses made by or on behalf of a user in connection with its discharge.  
(Ord. No. 91-2, § 13-1, 8-12-1991)

### **Secs. 40-472--40-495. Reserved.**

## **DIVISION 14.**

### **CONFLICT**

### **Sec. 40-496. Inconsistent ordinances or regulations.**

All laws and parts of laws, all ordinances, codes and regulations which are inconsistent with or in conflict with or repugnant to any provisions of this article, shall be deemed not to apply: provided that nothing herein contained shall be construed to prevent the adoption and enforcement of a law, ordinance, code or regulation which is more restrictive or establishes a higher standard than those provided in this article.  
(Ord. No. 91-2, § 14-1, 8-12-1991)

### **Secs. 40-497--40-515. Reserved.**

## **DIVISION 15.**

### **NO FREE SERVICE**

### **Sec. 40-516. Free service prohibited.**

No free service shall be allowed for any user of the city wastewater system.  
(Ord. No. 91-2, § 15-1, 8-12-1991)

### **Secs. 40-517--40-540. Reserved.**

## **DIVISION 16.**

### **PENALTIES**

### **Sec. 40-541. Penalty for violation.**

Any person convicted of a violation of any provision of this article shall be punished in accordance with section 1-11.  
(Ord. No. 91-2, § 16-1, 8-12-1991)

**Sec. 40-542. Violation of public nuisance.**

A violation of this article is also declared to be a public nuisance and the city may enforce by injunction or other remedy, including the right to correct the violation and bill the owner or person in charge of the premises therefore and if not collected, the bill will become a lien upon the property.  
(Ord. No. 91-2, § 16-2, 8-12-1991)

**Sec. 40-543. Responsibility for fines, damages, and expenses.**

Any user violating any of the provisions of this article, which results in fines or penalties being levied against the city, shall pay or reimburse the city for said fine or penalty, plus any expenses, loss or damage occasioned by such violation. Any user violating the provisions of this article shall pay or reimburse the city for any expenses incurred in enforcing this article, including actual attorney's fees.  
(Ord. No. 91-2, § 16-3, 8-12-1991)

**Secs. 40-544--40-565. Reserved.**

**ARTICLE IV.**

**WATER AND SEWER FEES**

**Sec. 40-566. New service water connections.**

- (a) *New service basic fees.* The new service basic fee for connection of water shall be allocated among the various classes of connections as follows:
- (1) There shall be a new service basic fee for any new service connection to the city water system.
  - (2) The new service basic fee shall cover three-quarter-inch copper water line to the property line, a curb stop at the property line, and the furnishing of a five-eighths inch meter at service area, with pro-read control. Services varying from this shall be charged at labor and material costs to the user.
  - (3) Multiple housing complexes shall pay a new service connection fee for connection to the city water system. They shall also pay for costs of connection from the main in the street to the property line, stubbing-in "Y". They shall be responsible for and install all distribution lines on their property including piping, fire protection and outside hydrants, valves, shutoffs, meters, etc. Temporary metering of water used during construction shall be arranged for as soon as water is connected to property. Metering of water usage shall be by building or complex rather than by unit.
  - (4) Those properties not having a water main crossing, contiguous to or across the street from any property line of the premises, the property owner shall pay the cost of extensions of the water main to the property along city rights-of-way. The property owner shall pay the cost of laterals, from the water main to the lot line, and shall also pay for the cost of stubbing in and the "Y". Costs shall include replacing the lot terrain and right-of-way street surface to its original

condition. Extensions of 200 feet or less may be contracted for by the property owner subject to city permit and city approved specifications. Extensions of over 200 feet shall be contracted for by the city, unless the council, by resolution, authorizes a private contractor, subject to city permit and city-approved specifications.

(b) *Performance of work.* Work to be performed by the following:

(1) *Licensed master plumbers.* Work on private systems, on private property, may be done by licensed master plumbers or contractors or personally by the property owner.

(2) *Public works department.* All work in the public right-of-way shall be directed by the public works department, except for commercial and industrial properties. For commercial and industrial properties, the public works department may give permission to licensed plumbers or contractors who make application to work in the public right-of-way for commercial or industrial properties. All work is to be constructed in compliance with the state plumbing code and city rules.

(3) *Bonds.* The contractor or plumber shall be covered by special bond or annual bond for each street opening, and shall replace right-of-way and street surface to the original condition. The city permit must be obtained prior to any street opening.

(Ord. No. 2006-02, § II, 5-8-2006)

#### **Sec. 40-567. Water benefit fees.**

Water benefit fees shall be as currently established or as hereafter adopted by resolution of the city council from time to time.

(Ord. No. 2006-02, § III, 5-8-2006)

#### **Sec. 40-568. New service sewer connection.**

(a) *Rates and fees.* The rates and fees to be charged users of the city sewage system shall be as are now in force, or which shall be established from time to time by the council.

(b) *Special assessment.* Expenses for hookup and new services.

(1) The council determines that a part of the expense of sewer hookups shall be defrayed by special assessments upon the property especially benefited.

(2) There shall be a new service basic fee for any new service connection to the city wastewater (sewer) system.

(Ord. No. 2006-02, § IV, 5-8-2006)

#### **Sec. 40-569. Sewer benefit fees.**

Sewer benefit fees shall be as currently established or as hereafter adopted by resolution of the city council from time to time.



(Ord. No. 2006-02, § V, 5-8-2006)

**Secs. 40-570--40-586. Reserved.**

## **ARTICLE V.**

### **UTILITY RELOCATION**

#### **Sec. 40-587. Legislative findings and purpose.**

(a) The city is currently in the process of designing and planning improvements to its streets. In addition, the city intends to make other, infrastructural improvements, including new water mains and installation of new sidewalks, in the city.

(b) As part of the process of improving city streets and its related infrastructure, the city has determined that it is a necessary public improvement to relocate underground all overhead electric utility, cable television, telecommunication and other lines and wires currently running along, across, adjacent to and/or over its streets, its intersections and to private property adjacent to its streets. In connection with this line and wire relocation, the city has determined that all poles and related overhead facilities equipment to the overhead lines should also be removed to the maximum extent possible.

(c) The governmental functions and purposes of this relocation of overhead lines and wires and removal of poles and related overhead facilities equipment include, but are not limited to, the following public health, safety and welfare concerns of the city:

- (1) To allow for the public improvement of the reconstruction and repair of the streets in the city, and improvement and repair of related infrastructure including sidewalks, water mains, sewers and street lighting.
- (2) To relieve the utility, transportation and infrastructural burden in the James Street corridor, which is a heavily-congested business district, serving the downtown business district and accommodating thousands of vehicles daily, traveling at high rates of speed along James Street and into and out of these businesses.
- (3) Improvement of the city's aesthetic environment through removal of unsightly poles, lines, wires and related overhead facilities equipment out of view of the public.
- (4) Enhancement of traffic operational safety in the city by the removal of utility poles and overhead lines, wires and related overhead facilities equipment in order to improve visibility, sight lines and eliminate vehicular accident impacts on poles, overhead lines and wires and other overhead facilities equipment.
- (5) To better protect electrical, cable, telecommunications and other service lines, wires, poles and related overhead facilities equipment from weather damage, vehicle accident damage and other causes, in order to reduce service interruptions to residents of and businesses located in the city.

- (6) Enhancement of the safety of city residents and persons traveling on city streets from falling or down lines, wires, poles and overhead facilities equipment.
- (7) Improvement of operational reliability of electrical utility, cable television, telecommunications and other services currently provided by overhead lines and wires.
- (8) Enhancement of existing and potential business development and other land use along business corridors recognizing the historical pattern of development including different:
  - a. Physical location of buildings and curb cuts;
  - b. Setbacks;
  - c. Location of and limits to rights-of-way; and
  - d. Location of utility poles and overhead lines and wires.

(d) The city has the power and authority to enact this article pursuant to, among other sources, art.7, sec. 29, the Michigan Constitution, the home rule act (MCL 117.4h), section 2 of the Charter, various chapters and franchise agreements related to cable television, existing legal precedent, applicable MPSC rules and the city's general police power to protect the public health, safety and general welfare.  
(Ord. No. 2005-05, § 2, 7-25-2005)

#### **Sec. 40-588. Relocation directed.**

Upon the adoption of this article and upon written notice from the city, all public utilities, telecommunications providers, cable television providers, state and county agencies and all other individuals, firms, partnerships, associations, companies, corporations or entities who own, lease, operate and/or maintain overhead lines and wires, poles and/or related overhead facilities equipment located along, across, over and/or adjacent to city streets, intersections and to private property adjacent to city streets, are hereby directed and ordered to begin immediately to relocate underground all of their overhead lines and wires and remove all poles and related overhead facilities equipment at their sole cost and expense and at no cost or expense to the city. In complying with this paragraph, the companies, agencies and persons shall also fully comply with all other articles of the city.

(Ord. No. 2005-05, § 3, 7-25-2005)

#### **Sec. 40-589. Cooperation directed.**

In connection with compliance with the requirements of section 40-588, all companies, agencies, persons and representatives of the city shall cooperate fully and in good faith with each other in the timely coordination and implementation of the planning, design, construction and completion of reconstruction and infrastructure improvements, including the underground relocation of overhead lines and wires, and the removal of poles and related overhead facilities equipment. The timetable for completion of work set forth in section 40-588 and this section shall be established solely by the city in consultation with the companies, agencies and other persons.

(Ord. No. 2005-05, § 4, 7-25-2005)

**Sec. 40-590. City contribution.**

To assist the companies, agencies and persons in carrying out the work required in sections 40-588 and 40-589, and in order to contribute to the timely success of any reconstruction, infrastructure improvements, the relocation of overhead lines and wires and the removal of poles and related overhead facilities equipment, the city shall, at its sole cost and expense, plan and design, conduit and/or duct banks to carry the said relocated underground lines and wires. The city may also, in its sole discretion, make other contributions to the work required in sections 40-588 and 40-589, including acquiring all necessary easements and rights-of-way. In order to facilitate this property acquisition, the city may in its discretion, exercise its powers of eminent domain. (Ord. No. 2005-05, § 5, 7-25-2005)

**Sec. 40-591. Retention of control of public places.**

Nothing contained herein shall be construed to alienate the title of the public in and to any public rights-of-way or any portion thereof, nor shall anything herein be construed in any manner as constituting a surrender by the city of its general powers with respect to the subject matter hereof, or with respect to any matter whatsoever, or in any manner be construed as limiting the right of the city to regulate the use of and access to any public rights-of-way within its exclusive or concurrent jurisdiction and to otherwise exercise its police powers to protect the public health, safety and welfare. (Ord. No. 2005-05, § 6, 7-25-2005)