

**SOUTH HAVEN AREA WATER-SEWER AUTHORITY
BOARD OF TRUSTEES**
Van Buren and Allegan Counties, Michigan

Board member Hunter, supported by Board member Stein moved the adoption of the following ordinance:

Ordinance No. 1002

**AN ORDINANCE TO REGULATE SEWER AND WATER SERVICE FOR SOUTH HAVEN
AREA WATER-SEWER CUSTOMERS, AND TO ESTABLISH PENALTIES FOR
VIOLATIONS**

The South Haven Area Water-Sewer Authority ordains:

ARTICLE I. IN GENERAL

Sec. 1.1. Short Title.

This ordinance shall be known for short as the "SHAWSA Water and Sewer Use Ordinance."

Sec. 1.2. Applicability.

This ordinance shall apply to all SHAWSA's constituent municipalities and to other persons outside those municipalities who, by contract or agreement with SHAWSA, are users of the SHAWSA water or sewer systems.

Sec. 1.3. Definitions A through P.

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

- (a) *Approval authority* means the Director of the state Department of Environmental Quality (or its successor) or other duly authorized official of the agency.
- (b) *Authorized representative of industrial user* means:
 - (1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;
 - (2) A general partner or proprietor, if the industrial user is a partnership or proprietorship, respectively;
 - (3) A duly authorized representative of the person designated in subsections (1) and (2) of this section, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates. The authorization must be made in writing by a person described in subsection (1) or (2) of this section and submitted to SHAWSA.
- (c) *Best Management Practices ("BMP's")* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR, Section 403.5 and Article 4 of this ordinance, BMP's also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (d) *Biochemical oxygen demand ("BOD")* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20o Celsius, expressed in terms of weight (pounds per day (lbs/day)) and concentration (milligrams per liter (mg/l)).
- (e) *Building sewer* means a sewer conveying wastewater from the premises of a user to the POTW.
- (f) *Categorical Pretreatment Standards* means the national categorical pretreatment standards, i.e. any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317), which applies to a specific category of industrial users.
- (g) *Constituent municipality* means a city, township, or village that is party to the SHAWSA Contract. A

reference to the term “constituent municipality” shall refer to the constituent municipality in which a particular property, user, or facility is located.

- (h) *Compatible Pollutants* means pollutants which can be effectively removed by the POTW system to within acceptable levels for the POTW residuals and the receiving stream. Specifically excluded are “heavy” metals, polychlorinated biphenyls, and any pollutant that will likely contribute or cause operational or sludge disposal problems or unacceptable discharges to the receiving waters.
- (i) *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.
- (j) *Clean Water Act (“CWA”)* means the Federal Water Pollution Control Act, also known as the Clean Water Act, 33 USC 1251 *et seq.*
- (k) *Direct discharge* means the discharge of treated or untreated wastewater directly to the waters of the State of Michigan.
- (l) *Environmental Protection Agency (“EPA”)* means the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the administrator or other duly authorized official of the agency.
- (m) *Garbage* means solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage and sale of produce.
- (n) *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.
- (o) *Holding tank waste* means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (p) *Indirect discharge* means the discharge or the introduction of pollutants into the POTW (including Holding tank waste discharged into the POTW).
- (q) *Industrial user* means a source of industrial waste.
- (r) *Industrial wastes* mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- (s) *Interference* means any discharge which causes the inhibition or disruption of the POTW treatment processes or operations which contributes to violation (including an increase in the magnitude or duration of a violation) of any requirement of SHAWSA’s NPDES Permit. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with 405 of the CWA (33 USC 1345), or any criteria, guidelines, or regulations developed pursuant to the SWDA, the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (t) *National pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the CWA (33 USC 1347) which applies to Industrial Users.
- (u) *National pollution discharge elimination system (“NPDES”) permit* means a permit issued pursuant to section 402 of the CWA (33 USC 1342).
- (v) *National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of 307(b) of the CWA and 40 CFR 403.5.
- (w) *Natural outlet* means any outlet into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.
- (x) *New source* means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed national pretreatment standards under section 307(c) of the CWA which will be applicable to such source if such standards are thereafter promulgated in accordance with that section. New source includes situations

where:

- (1) Construction is at a site where no other point discharge is located;
- (2) The process or production equipment causing discharge is totally replaced; or
- (3) The new wastewater generating processes of the facility are substantially independent of an existing source at the site.

Construction, as defined in this provision, is considered to have commenced when:

- (1) Installation or assembly of facilities or equipment has begun;
 - (2) Significant site preparation has begun for installation or assembly; or
 - (3) The owner/operator has entered into a binding contractual obligation for the purchase of facilities or equipment intended to be used in operations within a reasonable time.
- (y) *Non-Compliance* means a User or discharger is in a state of violation of this ordinance, the Wastewater Discharge Permit, or an Enforcement Requirement issued by SHAWSA.
- (z) *Non-contact cooling water* means water used to reduce temperature in a process that does not come in direct contact with the product, materials or contaminated surfaces of machinery, and does not require any special treatment by governing state, federal or local agencies to be discharged into a storm sewer or natural body of water.

Sec. 1.4. Definitions P through Z.

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

- (a) *Pass-Through* means a discharge which exits the POTW into Waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES discharge permit (including an increase in the magnitude or duration of a violation) or State and federal requirements.
- (b) *Person* means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (c) *pH* means the logarithm, base 10, of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (d) *Pollutant* means any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste, or any other contaminant discharged into water.
- (e) *Pollution* means the introduction of pollutants that can or does result in the degradation or impairment of the chemical, physical, biological, and radiological integrity of water.
- (f) *POTW Superintendent* means the official appointed by the SHAWSA Board as the chief enforcing officer of the industrial pretreatment provisions in Article IV of this ordinance.
- (g) *Pretreatment or treatment* means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. 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) regarding dilution.
- (h) *Pretreatment requirements* means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an Industrial User.
- (i) *Pretreatment standards or standard* means any local, state, or federal regulation containing pollutant

discharge limits. This term includes local limits, prohibitive discharge limits, and Categorical Pretreatment Standards.

- (j) *Publicly owned treatment works ("POTW")* means a treatment works as defined by section 212 of the CWA (33 USC 1292) which is owned in this instance by SHAWSA. This definition includes any sewers that convey wastewater to the POTW treatment plant.
- (k) *Sanitary sewage* means water carried waste from toilets, kitchens, laundry, bathing, or other facilities used for household purposes.
- (l) *SHAWSA* means the South Haven Area Water-Sewer Authority and its authorized personnel or officials, which may include employees of the City of South Haven as provided in the SHAWSA Contract.
- (m) *SHAWSA Board* means the board of trustees of the SHAWSA created by the SHAWSA Contract.
- (n) *SHAWSA Contract* means the contract agreed to and signed in 2016 among South Haven Charter Township, Casco Township, and the City of South Haven entitled "South Haven Area Water-Sewer Authority Contract," creating the SHAWSA to own and operate the public water and sanitary sewer systems serving customers within their respective jurisdictions, as may be amended from time to time.
- (o) *Shall* indicates a mandatory duty.
- (p) *Significant industrial user*.
 - (1) Except as provided in subsection (2), a significant user is any industrial user of SHAWSA's wastewater disposal system who:
 - (A) has discharged a process wastewater flow of 25,000 gallons or more per average work day, exclusive of sanitary, non-contact cooling water, and boiler water; or
 - (B) has an effluent which contributes greater than five, or equal to (5%) percent of the average dry weather hydraulic or organic capacity of SHAWSA's wastewater treatment system;
 - (C) is found by SHAWSA, to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, POTW's effluent quality, or air emissions generated by the POTW; or
 - (D) is a discharger subject to pretreatment standards under 40 CFR 403.6 or 40 CRF Chapter I, Subchapter N.
 - (2) Upon finding that an industrial user meeting the criteria in subsection (1)(A) or (B) of this Section has no reasonable potential for adversely affecting the operation of SHAWSA's wastewater treatment system or for violating any pretreatment standard or requirement, SHAWSA may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR 403.8(f)(6), determine that the such Industrial User is not significant Industrial User.
- (q) *Slug Discharge* means any discharge of a non-routine episodic nature, including but not limited to an accidental spill or non-customary batch discharge which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.
- (r) *Solid Waste Disposal Act ("SWDA")* means 42 USC 6901, *et seq.*
- (s) *State* means the State of Michigan and authorized representatives.
- (t) *Standard Industrial Classification ("SIC")* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- (u) *Storm water* means any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (v) *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.

- (w) *Tampering* means the act of operating any structure, appurtenance, or equipment that is part of the SHAWSA's water or sewerage system without authorization.
- (x) *Toxic pollutant* means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the EPA under Section 307(a) of the CWA or other federal acts or in regulations promulgated by the director of the Michigan Department of Environmental Quality (or its successor) under state Law.
- (y) *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the nondomestic user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (z) *User* means any person who receives any type of water or sewer service from SHAWSA, including a person who contributes, causes, or permits the contribution of wastewater into SHAWSA's POTW.
- (aa) *Violation* means a User or discharger has failed to comply with the terms of this ordinance or the Wastewater Discharge Permit.
- (bb) *Wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any infiltration or inflow which may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.
- (cc) *Wastewater discharge permit* means the permit as set forth in Article IV, Division 4.
- (dd) *Waters of the state* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof other than those designed and used to collect, convey, or dispose of sanitary sewage.

Sec. 1.5 Protection from damage.

1. It shall be unlawful to:

- (A) Maliciously, willfully, or negligently break, damage, destroy, uncover, deface, any structure, appurtenance, or equipment which is part of SHAWSA's water or sewerage system;
- (B) Knowingly tamper with or alter a monitoring device or process (including, without limitation, a meter) for the purpose of causing inaccurate reading or results;
- (C) Knowingly submit or prepare for submission to the SHAWSA a false statement, representation, or certification; or
- (D) Tamper with any structure, appurtenance, or equipment for the purpose other than specified in subsection (1)(A) above. Such tampering may include:
 - i. Opening or attempting to open a curb box or gate box;
 - ii. Opening or attempting to open a fire hydrant;
 - iii. Using a wrench, curb stop key, or gate key on any curb stop, gate valve, or fire hydrant; or
 - iv. Turning on or off water for any reason without authorization from SHAWSA or its representatives.
- (E) Any person who violates subsection (1)(A) through (1)(C) shall be guilty of a criminal misdemeanor subject to the penalties in Section 5.8 below. A person who violates subsection (1)(D) shall be responsible for a municipal civil infraction. A person who violates any provision of this section may be charged a fee to reimburse SHAWSA for

any costs incurred in connection with the violation, consistent with Section 5.6 of this ordinance.

ARTICLE II. WATER SERVICE

DIVISION 1. GENERALLY

Sec. 2.1.1. Private water supply systems.

- (a) *Permit required.* No person within SHAWSA's constituent municipalities or who has contracted with SHAWSA for water or sewer systems shall install or maintain any private water supply system without first obtaining a permit therefore from SHAWSA. Such permit will not be issued unless such water supply system meets the requirements of Act No. 98 of the Public Acts of Michigan of 1913 (MCL 325.201 *et seq.*, MSA 14.411 *et seq.*), and the approval of the appropriate county health department.
- (b) *Interconnection of private and municipal water systems.* There shall be no interconnection between any private water supply system and SHAWSA's water system without first obtaining a permit therefore from SHAWSA. Such permit shall not be issued unless such water supply system and the associated interconnection equipment meet the requirements of Act No. 98 of the Public Acts of Michigan of 1913 (MCL 325.201 *et seq.*, MSA 14.411 *et seq.*) and the approval of the appropriate county health department.
- (c) *Installation of private wells.* Construction of any well must meet the requirements of MCL 333.12701 *et seq.*, MSA 14.15(12701) *et seq.*
- (d) *Penalty.* Any person who violates, omits, neglects, or refuses to comply with the provisions of this section shall be responsible for a municipal civil infraction and subject to penalties as provided in this ordinance.

Sec. 2.1.2. Cross connections.

- (a) *Adoption of Michigan Department of Environmental, Great Lakes and Energy, rules.* SHAWSA adopts by reference the water supply cross connection rules of the Michigan Department of Environmental, Great Lakes and Energy, being R 325.11401 to R 325.11407 of the Michigan Administrative Code. It shall be a violation of this ordinance to make or maintain any cross connection prohibited by the aforementioned rules.
- (b) *Inspections.* SHAWSA shall initiate inspections 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 re-inspections based on potential health hazards involved shall be as established by SHAWSA and as approved by the Michigan Department of Environmental, Great Lakes and Energy,
- (c) *SHAWSA's right to access for inspection.* The representative of SHAWSA shall have the right to enter at any reasonable time any property served by a connection to SHAWSA's public water supply system for the purpose of inspecting the piping system thereof for cross-connections. On request, the owner, lessee, or occupants of any property so served shall furnish to the inspection agency any pertinent information regarding the piping system on such property. The refusal of such information or refusal of access, when requested, shall be deemed evidence of the presence of cross-connections.
- (d) *Discontinuance of service until the elimination of cross-connection and reimbursement of expenses.* SHAWSA is hereby authorized and directed to discontinue water service after reasonable notice to any property wherein any connection in violation of this section 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-connection has been eliminated in compliance with the provisions of this section. Further, SHAWSA may condition the restoration of service on payment of a fee that fully reimburses SHAWSA for any costs incurred in connection with the cross connection, consistent with Section 5.6 of this ordinance.
- (e) *Protection of potable water supply.* 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 section

and by any applicable state or local 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."

- (f) *Section supplementary to Michigan Plumbing Code.* This section does not supersede Michigan Plumbing Code, but is instead supplementary to it.
- (g) That all testable backflow prevention assemblies shall be tested every three (3) years for all low hazard applications, and annually for all high hazard applications and reduced-pressure principal backflow assemblies, in accordance to the State of Michigan Cross-Connection Control Rules Manual and State Plumbing Code. Only individuals who hold an active ASSE 5110 tester certification shall be qualified to perform such testing.

Sec. 2.1.3. Emergency Water Use Restrictions.

- (a) During periods when the use of public water approaches the capacity of the public water system, SHAWSA is hereby authorized to declare a water use restriction, which is a prohibition of non-essential use of water from the public water system.
- (b) Upon declaration of a water use restriction, the water use restriction shall be publicized using local media such as radio, internet, and newspaper advertising.
- (c) Upon declaration of a water use restriction, there may be a prohibition on lawn irrigation and washing of vehicles with water from the public water system and on the use of water-powered sump pumps. An enforcement officer designated by SHAWSA is authorized to notify in writing the owner, occupant, or agent of any property, parcel, or area on which a violation of implemented restrictions is observed. This notification may be provided by giving a written notice to the owner, occupant, or agent, or by posting a written notice in a conspicuous place on the property.
- (d) Such notice shall include a statement that there is a prohibition on non-essential use of water from the public system, the date of effect of the prohibition, the date and time that the notice was posted, and the consequence, should the owner fail to comply with the notice to cease lawn irrigation and vehicle washing with water from the public system.
- (e) Upon notification, the owner or occupant of a property irrigating a lawn or washing a vehicle with water from the public system shall be responsible for a civil infraction and subject to the enforcement procedures and penalties as set forth in this ordinance.
- (g) Upon notification, the water department is authorized to shut off water service to a property upon which lawn irrigation or washing of vehicles from the public water system is taking place.

Sec. 2.1.4. Separate Connection for each Building

A separate and independent water connection shall be provided for every building. Except where 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, court, yard, or driveway, the water connection from the front building may be extended to the rear building and the whole considered as one building water.

DIVISION 2. RATES

Sec. 2.2.1. Standby charge.

The water standby service fee is based on the size of the water meter used or installed, is the minimum charge, is payable in advance, and is additional to the charge for water use. Such charge is to include the cost of debt service, capital replacement funding, capital improvement, and the readiness to serve costs. Such charge is made whether or not the water meter is turned off. The amount of the charge will be set by resolution of the SHAWSA Board.

Sec. 2.2.2. Water usage rate.

In addition to the standby charge for water, a usage charge is levied which is based solely on the amount of water which is registered on the water meter each billing period. This rate shall be set by resolution of

the SHAWSA Board.

ARTICLE III. SEWER SERVICE

DIVISION 1. GENERALLY

Sec. 3.1.1. Treatment by special agreement.

No statement contained in this ordinance shall be construed as preventing any special agreement or arrangement between SHAWSA and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by SHAWSA for treatment, subject to equitable payment therefore by the industrial concern as set forth in formula.

Sec. 3.1.3. Powers and authority of inspectors.

- (a) Duly authorized agents of SHAWSA bearing proper credentials and identification shall be permitted to enter upon all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this ordinance. However, such agents shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment.
- (b) While performing the necessary work on private properties referred to in this section, the duly authorized agents of SHAWSA shall observe all safety rules applicable to the premises established by the company, and the company shall be held harmless for injury or death to SHAWSA's agent(s). SHAWSA shall indemnify the company against loss or damage to its property by SHAWSA agents and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required by this ordinance.

DIVISION 3. BUILDING SEWERS

Sec. 3.3.1. Permit required.

No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from SHAWSA.

Sec. 3.3.2. Classes of permits; application; fees.

There shall be three classes of building sewer permits: (1) residential service (2) commercial service; and (3) service to establishments producing industrial wastes. In any case, the owner or the owner's agent shall make application on a special form furnished by SHAWSA. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of SHAWSA. A permit and inspection fee may be assessed, payable to SHAWSA at the time the application is filed. The amount of the permit and inspection fee will be set by resolution of the SHAWSA Board.

Sec. 3.3.3. Cost of installation.

All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify SHAWSA from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

Sec. 3.3.4. Separate connection for each building.

A separate and independent building sewer shall be provided for every building; except where 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, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

Sec. 3.3.5. Old sewers, reuse.

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

Sec. 3.3.6. Construction standards.

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of SHAWSA. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the Water Environment Federation Manual of Practice No. FD-5: Gravity Sanitary Sewer Design and Construction shall apply.

Sec. 3.3.7. Elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 3.3.8. Surface water drainage.

No person shall make connection of roof downspouts, exterior foundation drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

Sec. 3.3.9. Connection regulations.

The connection of the building sewer into the public sewer shall conform to the requirements of the state and local building and plumbing codes or other applicable rules and regulations of SHAWSA, or the procedures set forth in appropriate specifications of the Water Environment Federation Manual of Practice No. FD-5: Gravity Sanitary Sewer Design and Construction shall apply. All such connections shall be made gastight and watertight.

Sec. 3.3.10. Approval of deviation from standard procedures and materials.

Any deviation from the prescribed procedures and materials must be approved by SHAWSA before installation.

Sec. 3.3.11. Supervision of connection of building sewer to public sewer.

The applicant for the building sewer permit shall notify SHAWSA when the building sewer is ready for inspection and connection to the public sewer. SHAWSA shall supervise the connection.

Sec. 3.3.12. Guarding of excavations.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to SHAWSA.

DIVISION 4. SEWER USE

Sec. 3.4.1. Storm water disposition.

- (a) No person shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- (b) Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers or storm sewers, or to a natural outlet approved by the appropriate state agency. Industrial cooling water or unpolluted process waters may be discharged upon approval of the appropriate state agency, to a storm sewer or natural outlet.

Sec. 3.4.2. Interceptors.

Grease, oil, and sand interceptors shall be provided when, in the opinion of SHAWSA, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by SHAWSA and shall be located as to be readily and easily accessible for cleaning and inspection.

Sec. 3.4.3. Sewage flow determination.

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

- (a) The amount of water supplied to the premises by SHAWSA or a private water company as shown upon the water meter if the premises are metered;
- (b) If the premises are supplied with river water or from private wells, the amount of water supplied from such sources may be metered at the source or metered at its point of discharge prior to entry into SHAWSA sewer;
- (c) 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 made by SHAWSA from the water supply or metered at its point of discharge prior to entry into SHAWSA sewer;
- (d) The volume 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 SHAWSA pursuant to this section; or
- (e) A figure determined by SHAWSA by any combination of the foregoing or by any other equitable method.

Sec. 3.4.4. Inspection and sampling.

SHAWSA shall inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow SHAWSA or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, or in the performance of any of their duties. SHAWSA shall have the right to request copies of records that relate to the quantity and quality of wastewater discharged. SHAWSA or approval authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring, and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with the security guards so that, upon presentation of suitable identification, personnel from SHAWSA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Sec. 3.4.5. Pretreatment standards.

- (a) Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all federal pretreatment standards within the time limitations, as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to SHAWSA shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to SHAWSA for review and shall be acceptable to SHAWSA before construction of the facility. The review of such plans 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 SHAWSA under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to SHAWSA prior to the user's initiation of the changes.
- (b) SHAWSA shall annually publish in the local newspaper a list of the users which were significantly violating pretreatment requirements or 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. Significant violations are violations which remain uncorrected 45 days after notice of noncompliance.
- (c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

DIVISION 5. RATES

Sec. 3.5.1. Sewer standby service fees.

The sewer standby service fee is based on the size of the water meter used or installed, is the minimum charge, is payable in advance, and is additional to the charge for sewer use. Such charge is to include the cost of debt service, capital replacement funding, capital improvement and the readiness to serve costs. Such charge is made whether or not the sewer is in use.

Sec. 3.5.2. Sewer usage rate.

- (a) In addition to the standby service charge for sewer, a usage charge is levied which is based solely on the amount of water which is registered on the water meter each billing period.
- (b) The sewer usage volume charge for single-family and duplex residential structures for utility bills dated June 1 through September 30 will be based on the average monthly water use billed for the five-month period from the November water meter readings through the April water meter readings with a minimum volume charge of 1,000 cubic feet per month. If a month's metered water use is less than the above referenced sewer usage volume calculation, that month's sewer usage volume charge will be based on the metered water use. For new connections with no history of usage, the minimum billing will apply.

Sec. 3.5.3. Sewer only users.

A use of sewer service that does not receive SHAWSA water service will have the option of:

- (a) Installing a water meter on their private water source, installed at the total expense of the user and providing the meter is available to the satisfaction of SHAWSA for monthly reads and periodical inspection as determined by SHAWSA; or
- (b) Billing on a flat rate as determined by SHAWSA. The flat rate will be determined based on 1000 cubic feet per month per residential equivalent unit. In addition, fixed sewer charges for debt service, capital replacement improvement, etc. will be the same as a customer with a 5/8" water meter.

Sec. 3.5.4. Rates set by SHAWSA Board.

All charges, rates, and fees for sewer service shall be set by resolution of the SHAWSA Board.

ARTICLE IV. INDUSTRIAL PRETREATMENT

DIVISION 1. GENERALLY

Sec. 4.1.1. Purpose, policy, and objectives of this ordinance.

- (a) This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for SHAWSA and enables SHAWSA to comply with all applicable state and federal laws required by the CWA and the General Pretreatment Regulations (40 CFR, Part 403).
- (b) The objectives of this ordinance are to:
 - (1) Prevent the introduction of pollutants into the wastewater system which will interfere with the operation of the POTW or contaminate the resulting sludge;
 - (2) Prevent the introduction of pollutants into SHAWSA's wastewater system which will pass through the POTW, inadequately treated, into receiving waters or the atmosphere, pose a health threat to sewer workers, cause the treatment plant to violate its NPDES Discharge Permit, or otherwise be incompatible with the POTW;
 - (3) Improve the opportunity to recycle and reclaim wastewaters and sludges from the POTW; and
 - (4) Provide for equitable distribution of the cost of SHAWSA's wastewater system.

Sec. 4.1.2. Administration and enforcement.

This ordinance provides for the regulation of direct and indirect contributors to SHAWSA's wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customers capacity will not be preempted (except as may be necessary or appropriate to protect the POTW or the receiving stream), and provides for the setting of fees for the

equitable distribution of costs resulting from the program established in this ordinance.

DIVISION 2. DISCHARGES

Sec. 4.2.1. General discharge prohibitions.

- (a) No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or cause interference with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to pretreatment standards or any other federal, state, or local pretreatment standards or requirements. A user may not contribute the following substances to any POTW:
- (1) Any liquids, solids, or gases which, by reason of their nature or quantity, are or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. This includes but is not limited to waste streams with a flash point of less than 140^oF or 60^oC using the test methods specified in 40 CFR 261.21. In addition, at no time shall any single reading on an explosion hazard meter at the point of discharge into the POTW (or at any point in the POTW) be more than twenty (20%) percent of the lower explosive limit of the meter. Prohibited materials include, but are not limited to gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydride and sulfides, and any other substances which are fire hazards or hazards to the POTW.
 - (2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facility such as, but not limited to, grease, garbage with particles greater than 1/2 inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
 - (3) Any wastewater having a pH less than 6.5 or greater than 9.5, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
 - (4) Any wastewater volume or 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. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the CWA.
 - (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. This includes, but is not limited to, discharges which result in toxic gases, vapors, or fumes.
 - (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. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under section 405 of the CWA; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
 - (7) Any substance which will cause the POTW to violate its NPDES and/or state disposal system permit or the receiving water quality 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 treatment

plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which causes the treatment plant influent to exceed 104^o F.

- (10) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a user knows or has reason to know 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 SHAWSA in compliance with applicable state or federal regulations.
- (12) Any wastewater containing sufficient amounts of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass through or interference with POTW operations.
- (13) Any pollutants that will exert a high chlorine demand such as, but not limited to, nitrite, thiocyanate, sulfate and thiosulfate.
- (14) Any detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.
- (15) Any trucked or hauled waste except at discharge points and subject to such other restriction as designated by the POTW.
- (16) Any wastewater which causes a hazard to human life or creates a public nuisance.

Sec. 4.2.2. Federal categorical pretreatment standards.

- (a) Upon the promulgation of the pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this section for sources in that subcategory, shall immediately supersede the limitations imposed under this Ordinance. SHAWSA shall notify all affected users of the applicable reporting requirements under 40 CFR, Section 403.12.
- (b) For industries subject to limitations on mass discharge per unit of production, SHAWSA may set equivalent mass per day or concentration limits. These limits will be deemed pretreatment standards which Industrial users shall comply with in lieu of the promulgated standards. Any industrial user which is operating under equivalent mass or concentration limits calculated from a production-based standard shall notify SHAWSA within 2 business days after the user has reason to know that the production level will significantly change within the next calendar month.
- (c) The pretreatment standards may be adjusted to reflect the presence of pollutants in the Industrial Users intake water in accordance with 40 CFR 403.15. Any user wishing to obtain credit for intake pollutants must apply to SHAWSA and demonstrate that the requirements of 40 CFR 403.15(b) are met. If SHAWSA approves the user's application, the applicable Standard will be recalculated on a "net" basis to reflect credit for the pollutants in the intake water.

Sec. 4.2.3. Modification of federal pretreatment standards.

Where SHAWSA's wastewater treatment system achieves consistent removal of pollutants limited by federal pretreatment standards, SHAWSA may apply to the approval authority for modification of specific limits in the federal pretreatment standards. Consistent removal shall mean reduction in the amount of a pollutant or alteration of the nature of the pollutant by the wastewater treatment system to a less toxic or harmless state in the effluent which is achieved by the POTW in 95 percent of the samples taken when measured according to the procedures set forth in section 403.7(c)(2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the CWA. SHAWSA may then modify pollutant discharge limits in the federal pretreatment standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the approval authority is obtained.

Sec. 4.2.4 Specific pollutant limitations.

(a) No person shall discharge wastewater containing in excess of:

<u>Pollutant</u>	<u>Discharge Limit</u>
5-Day BOD	Surcharge above 200 mg/l; Upper limit 330 mg/l
Suspended Solids	Surcharge above 250 mg/l; Upper limit 500 mg/l
Phosphorus (as P)	Surcharge above 10 mg/l; Upper limit 30 mg/l
Ammonia Nitrogen (NH ₃ as N)	Surcharge above 20 mg/l; Upper limit 30 mg/l
Fats, Oils, and Grease	100 mg/l
PH	Lower limit 6.5; Upper limit 9.5
Temperature (°F)	150° F Maximum to Sewer ; 104° F Maximum at POTW Treatment Plan Influent

<u>Metals</u>	<u>Maximum mg/l</u>	<u>30 Day Average mg/l</u>
Arsenic	0.170	0.089
Cadmium	0.150	0.066
Chromium, total	5.200	2.100
Copper	5.600	1.900
Cyanide, total	1.300	1.300
Lead	1.300	0.400
Mercury	non detect	non detect
Molybdenum	0.460	0.460
Nickel	1.300	1.300
Selenium	0.450	0.450
Silver	0.037	0.037
Zinc	12.000	4.900

- (b) The discharge of mercury shall be below detection. The discharge of mercury at or above the quantification level of 0.2 ug/l shall represent an exceedance of the local limit. Mercury sampling procedures, preservation and handling, and analytical protocol for compliance monitoring shall be in accordance with U.S. EPA Method 245.1, unless Method 1631 is required by SHAWSA. The quantification level shall be 0.2 ug/l for Method 245.1 or 0.5 ng/l for Method 1631, unless higher levels are appropriate due to sample matrix interference.
- (c) In place of using the concentration limits in subsection (a), the POTW Superintendent may allocate specified portions of the total available Maximum Allowable Headworks Loading (MAHL) to individual non-domestic users as provided by this subsection (c).

(1) As of the effective date of this section, the following total loads are available for the following pollutants:

<u>Pollutant</u>	<u>MAHL - 30 Day Average</u>
5-Day BOD	968 pounds/day
Suspended Solids	1446 pounds/day
Ammonia Nitrogen – N	93 pounds/day
Phosphorus – P	115 pounds/day

- (2) The POTW may allocate portions of the MAHL for one or more of the pollutants listed in subsection (1) to one or more individual users. The amounts of the MAHL allocated to each user shall be specified in the user's Wastewater Discharge Permit along with any conditions as determined by the POTW Superintendent. Any discharge by a user in excess of the loading allocated in the Wastewater Discharge Permit shall constitute a violation of the Permit and this section.
- (3) Before allocating any amount of the available MAHL as provided by this section, the POTW Superintendent must determine that the proposed allocation will not cause the average composite loading of all non-domestic users discharging to the POTW to exceed the available total MAHL for any pollutant as provided in subsection (1); will not interfere with the POTW's ability to accept and treat wastewater as required by the POTW's NPDES Permit and other applicable laws and regulations; and the allocation is otherwise reasonable and appropriate under all of the circumstances.
- (4) If the POTW Superintendent allocates a portion of the available total MAHL for some, but not all, of

the pollutants listed in subsection (1) to a user, any pollutants not allocated shall be subject to the concentration limits in section (a).

- (5) The allocation of a portion of the total available MAHL to an individual user shall not affect the applicability of surcharges to the user's discharge of that pollutant as provided by subsection (a).
- (6) Except as otherwise expressly provided by this section, an allocation of load for a pollutant shall not affect a user's obligation to comply with the requirements and standards of this section and other applicable laws and regulations.

Sec. 4.2.5. 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 in this division.

Sec. 4.2.6. SHAWSA's right of revision.

SHAWSA reserves the right to establish by section or by discharge permit more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this ordinance.

Sec. 4.2.7. Dilution.

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 federal pretreatment standards, or in any other applicable pollutant-specific limitation, except where expressly authorized to do so by an applicable pretreatment standard or in writing by SHAWSA.

Sec. 4.2.8. Slug discharges.

- (a) Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this division.
- (b) SHAWSA will evaluate each significant industrial user at least once every two years to determine whether the user needs to develop a plan to prevent and control slug discharges. New Significant Industrial Users will be evaluated within 1 year of being a Significant Industrial User.
- (c) If control structures are required to prevent slug discharges, they 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 SHAWSA for review and shall be approved by SHAWSA before construction of the facility. 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 division.
- (d) In case of an anticipated slug discharge, the user shall notify SHAWSA (if possible) or the POTW by telephone of the anticipated discharge, including discharge location, type of waste, concentration and volume, by not later than immediately after the user becomes aware that the slug discharge may occur or 10 days prior to the anticipated discharge. The user shall also take such other steps as required by the POTW or this ordinance.
- (e) In the case of an accidental discharge, operations upset, or other slug 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. The Industrial user must repeat the sampling and analysis of the discharge within 24 hours after becoming aware of a violation and report the results to SHAWSA as soon as they are available (not later than 30 days), unless the POTW samples the industrial user's discharge. Within five (5) days following an accidental discharge or operations upset, the user shall submit to the POTW Superintendent a detailed written report with the following information:
 - (1) A description of the discharge and cause of noncompliance.
 - (2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.

- (3) Steps being taken or planned to reduce, eliminate, and prevent a recurrence of the noncompliance.
- (f) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge of prohibited materials or other substances regulated by this section. Employers shall insure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.
- (g) Significant Industrial Users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge.
- (h) If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - (1) Description of discharge practices, including non-routine batch Discharges;
 - (2) Description of stored chemicals;
 - (3) Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under 40 CFR, Part 403.5 (b) with procedures for follow-up written notification within five days;
 - (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Sec. 4.2.9. Discharge changes.

The Industrial User must notify the POTW before making any significant changes in its discharge. A significant change is defined as a significant increase in nondomestic flow or pollutant loading, or a new process water discharge; or any change that could affect the operation or discharge of the POTW, pass through to waters of the state untreated; interfere with POTW processes or the beneficial use of biosolids, or cause the POTW to violate its NPDES permit. SHAWSA may require a new Wastewater Discharge Permit prior to the change.

Sec. 4.2.10. Bypass.

Bypass means the intentional diversion of wastewater from any portion of an Industrial User's treatment facility. An Industrial User may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to SHAWSA, if possible at least 10 days before the date of bypass. A bypass that violates treatment standards or other discharge limitation is prohibited unless the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; or there were no feasible alternatives to the bypass. The Industrial User shall submit oral and written notification of a bypass that may or does exceed discharge limitations as described in this ordinance. SHAWSA may require such additional written reports as it deems appropriate regarding an anticipated or unanticipated bypass.

Sec. 4.2.11. Hazardous waste.

- (a) Any Industrial User, except as specified in subsection (e) below, which discharges to the POTW any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR Part 261, shall notify the POTW in writing of such discharge.
- (b) All hazardous waste notifications shall include:
 - (1) The name of the hazardous waste as set forth in 40 CFR Part 261;
 - (2) The EPA hazardous waste number;
 - (3) The type of discharge (continuous, batch, or other); and

- (4) A certification that the user has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (c) In addition to the information submitted in subsection (b) above, Industrial Users discharging more than 100 kg of hazardous waste per calendar month to the POTW shall contain to the extent such information is known and readily available to the user:
 - (1) An identification of the hazardous constituents contained in the waste;
 - (2) An estimation of the mass and concentration of such constituents in the waste stream expected to be discharged during the following 12 months.
- (d) All notifications must be provided no later than 180 days after the discharge of the listed or characteristic hazardous wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted as required by this ordinance.
- (e) Industrial Users are exempt from the hazardous waste notification requirement during a calendar month in which they discharge 15 kg or less of non-acute hazardous wastes. Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification.

DIVISION 3. FEES

Sec. 4.3.1. Purpose of division.

It is the purpose of this division to provide for the recovery of costs from users of SHAWSA wastewater disposal system for the implementation of the program established in this ordinance. The applicable charges or fees shall be set forth in SHAWSA's schedule of Charges and Fees.

Sec. 4.3.2. Charges and fees.

- (a) The SHAWSA Board may adopt, by resolution, charges and fees which may include:
 - (1) Fees for reimbursement of costs of setting up and operating SHAWSA's pretreatment program;
 - (2) Fees for monitoring, inspections and surveillance procedures; including the cost of reviewing monitoring reports submitted by the user;
 - (3) Fees for reviewing accidental discharge procedures and construction;
 - (4) Fees for permit applications; including the cost of processing such applications;
 - (5) Fees for filing appeals;
 - (6) Fees for consistent removal by SHAWSA of pollutants otherwise subject to federal pretreatment standards; and
 - (7) Other fees as SHAWSA may deem necessary to carry out the requirements contained in this division.
- (b) These fees relate solely to the matters covered by this ordinance and are separate from all other fees chargeable by SHAWSA.

DIVISION 4. ADMINISTRATION

Subdivision I. Generally

Sec. 4.4.1.1. Unpermitted wastewater discharge.

It shall be unlawful to discharge to the POTW any non-domestic wastewater except as authorized by SHAWSA in accordance with the provisions of this section.

Sec. 4.4.1.2. Monitoring facilities.

- (a) SHAWSA shall require to be provided and operated at the user's own expense monitoring facilities to allow the inspection, sampling, and flow measurement of the building sewer and/or internal drainage

systems. The monitoring facility should normally be situated on the user's premises, but SHAWSA may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

- (b) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.
- (c) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with SHAWSA's requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by SHAWSA.

Sec. 4.4.1.3. Inspection and sampling.

SHAWSA shall have the right to inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow SHAWSA or their representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, records examination, or in the performance of any of their duties. SHAWSA shall have the right to request copies of records that relate to the quantity and quality of wastewater discharged. SHAWSA or approval authority shall have the right to set up on the user's property such devices as necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear before entry into their premises, the user shall make necessary arrangements at its own expense enable and enable SHAWSA or approval authority to enter, without delay, for the purposes of performing their specific responsibilities.

Sec. 4.4.1.4. Pretreatment.

- (a) Users shall provide necessary wastewater treatment as required to comply with the most stringent aspects of this ordinance, federal pretreatment standards, state standards and permit conditions, and shall achieve compliance with all federal pretreatment standards within the time limitation as specified by the federal pretreatment regulations and any other pretreatment standards by applicable deadlines. Any facilities required to pretreat wastewater to a level acceptable to SHAWSA shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to SHAWSA for review and shall be acceptable to SHAWSA before construction of the facility. The review of such plans 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 SHAWSA under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to SHAWSA prior to the user's initiation of the changes.
- (b) New sources subject to federal, state, or local pretreatment standards shall be required to install and start-up the necessary technology to meet applicable limitations prior to discharge; and to achieve compliance within the shortest time feasible, not to exceed ninety (90) days after commencement of discharge.

Sec. 4.4.1.5. 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 SHAWSA that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user, and withholding such information is permitted by law. Any costs incurred by SHAWSA in connection with a request of confidentiality by a user shall be paid or reimbursed by the user.
- (b) When requested by the person furnishing a report, the portions of a report which the user demonstrates to SHAWSA's satisfaction might disclose trade secrets or secret processes shall be shielded from public inspection to the extent permitted by law but shall be made available upon written request to

governmental agencies for uses related to this ordinance, SHAWSA's NPDES Permit, state disposal system permit, and/or the pretreatment programs. Such portions of a report shall also be available for use by the state or EPA in accordance with law, including use in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information and are available to the public without restriction.

Sec. 4.4.1.6. Records retention.

All dischargers subject to this ordinance shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof relating to monitoring, sampling and chemical analyses made by or in behalf of the discharger in connection with its discharge, including documentation associated with Best Management Practices. All records which pertain to matters which are subject of administrative adjustment or any other enforcement or litigation activities brought by Approval Authority pursuant hereto shall be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

Sec. 4.4.1.7. Publication of significant noncompliance.

- (a) SHAWSA shall annually publish in a newspaper of general circulation within the jurisdiction served by the POTW that provides meaningful public notice a list of the users which were significantly violating pretreatment requirements or standards at least once during the 12 previous months. The notification shall also summarize any enforcement actions taken against the users(s) during the same 12 months. The user is in significant noncompliance if its violation meets one or more of the following criteria:
- (1) Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);
 - (2) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
 - (3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(1) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges. Interference or Pass Through (including endangering the health of POTW personnel or the general public);
 - (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;
 - (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing construction or attaining final compliance;
 - (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self- monitoring reports, and reports on compliance with compliance schedules;
 - (7) Failure to accurately report noncompliance; or
 - (8) Any other violation or group of violations, which may include a violation of Best Management Practices, which SHAWSA determines will adversely affect the operation or implementation of SHAWSA's pretreatment program.
- (b) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

Subdivision II. Wastewater Discharge Permit

Sec. 4.4.2.1. Required.

- (a) All anticipated or actual significant industrial users of the POTW and other prospective users shall obtain a Wastewater Discharge Permit from SHAWSA before connecting to or contributing to the POTW.
- (b) All Industrial Users must apply for a new permit or a modification to their existing permits at least 90 days in advance of substantial changes in volume or character of discharges.

Sec. 4.4.2.2. Application.

- (a) Users required to obtain a Wastewater Discharge Permit shall complete and file with SHAWSA an application in the form prescribed by SHAWSA. Proposed new users shall apply at least 90 days prior to connecting to or contributing to the POTW. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:
 - (1) Name, address and location if different from the address;
 - (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972 as amended
 - (3) Wastewater constituents and characteristics including, but not limited to, those mentioned in Division 2 of this ordinance as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the CWA and contained in 40 CFR, Part 136 as amended
 - (4) Time and duration of contribution;
 - (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations if any; and a description of any anticipated non-routine batch discharges (characteristics, duration, and flowrate);
 - (6) Site plans, floor plans, mechanical and plumbing plans and detail to show all sewers connections, and appurtenances by the size, location, and elevation; and a current water use schematic;
 - (7) Description of activities, facilities and plant processes on the premises including all stored chemicals and all materials which are or could be discharges;
 - (8) Where known, the nature and concentration of any pollutant in the discharge which are limited by any local, state, or federal pretreatment standards, and a statement signed by an authorized representative of the user and certified by a qualified professional in accordance with 40 CFR 403.12(b)(6) regarding whether or not the pretreatment standards are being met on a consistent basis and if not whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable Pretreatment Requirements and Standards. Those users subject to national pretreatment standards must comply with the pollutant measurement requirements in 40 CFR 403.12(b)(5);
 - (9) If additional pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:
 - (A) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
 - (B) No increment referred to in subsection (9)(A) of this section shall exceed 9 months.
 - (C) Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to SHAWSA including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and if not, the date on which

it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to SHAWSA.

- (10) Each product and/or byproduct produced by type, amount, process or processes and rate of production;
 - (11) Type and amount of raw materials used in processes (average and maximum per day);
 - (12) Number and type of employees, and hours of operation of plant facilities and proposed or actual hours of operation of pretreatment system;
 - (13) List of any environmental control permits held by or for the facility;
 - (14) Any other information as may be deemed by SHAWSA to be necessary to evaluate the permit application.
 - (15) The application must be certified by an authorized representative of the user in accordance with 40 CFR 403.6(a)(2)(ii).
- (b) SHAWSA will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, SHAWSA may issue a wastewater discharge permit subject to terms and conditions provided herein. The permit shall not become effective prior to submittal to SHAWSA of a copy of the permit executed by an authorized representative of the permittee.

Sec. 4.4.2.3. Modifications.

Within 9 months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit is required by this ordinance, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national pretreatment standard. In addition, the user with an existing wastewater discharge permit shall submit to SHAWSA within 180 days after promulgation of an applicable federal pretreatment standard the information required by Section 4.4.2.2(a)(8) and (a)(9).

Sec. 4.4.2.4. Conditions.

Wastewater discharge permits shall be expressly subject to all provisions of this ordinance and all other applicable regulations, user charges, and fees established by SHAWSA. Permits must be enforceable and shall contain as appropriate the following:

- (a) The permit durations as described this ordinance;
- (b) Permit transfer requirements as described in this ordinance;
- (c) General and specific discharge prohibitions as established in this ordinance;
- (d) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a SHAWSA sewer;
- (e) Effluent limits including Best Management Practices, based on applicable categorical pretreatment standards, local limits as established by this ordinance and state and local law;
- (f) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- (g) Requirements for installation and maintenance of inspection and sampling facilities;
- (h) Requirements and specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for test and reporting schedule;
- (i) Description of applicable civil and criminal penalties for violations of the pretreatment standards and requirements, and any applicable compliance schedules;

- (j) Requirements for submission of technical reports or discharge reports (see Subdivision III of this Division);
- (k) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by SHAWSA, and affording SHAWSA, the state, and EPA access thereto;
- (l) Requirements for notification of SHAWSA of any new introduction of wastewater constituents or any substantial change in volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (m) Requirements for notification of spills or other potential problem discharges to the POTW including slug loadings, upsets, or violations;
- (n) Requirements for installation, operation, and maintenance of pollution control equipment;
- (o) Requirements to develop and implement spill and slug control plans;
- (p) Conditions for modification or revocation of permit; and
- (q) Other conditions as deemed appropriate by SHAWSA to ensure compliance with this ordinance.

Sec. 4.4.2.5. Duration.

Permits shall be issued for a specified time period, not to exceed 5 years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of 180 days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by SHAWSA during the term of the permit as limitations or requirements as identified in Division 2 are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

Sec. 4.4.2.6. Transfer.

Wastewater discharge permits are issued to a specific user for a specific operation and are not valid for and other user or operation except as provided below. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without the approval of SHAWSA and provision of a copy of the existing wastewater contribution permit to the new owner or operator. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.

Subdivision III. Reporting Requirements for Permittee

Sec. 4.4.3.1 Baseline Monitoring Report.

- (a) Within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made upon a category determination submission under R 323.2311(2), whichever is later, existing industrial users subject to the categorical pretreatment standards and currently discharging, or scheduled to discharge, to the POTW shall be required to submit to SHAWSA a report that contains all of the information listed in R 323.2310. Where reports containing this information already have been submitted to SHAWSA in compliance with the requirements of 40 C.F.R. §128.140(b) (1977), the industrial user will not be required to submit the information again.
- (b) Not less than 90 days before the commencement of a discharge, sources that become industrial users subsequent to the promulgation of an applicable categorical standard and new sources shall be required to submit to SHAWSA a report that contains the information listed in subdivisions (a) to (e) of R 323.2310. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subdivisions (d) and (e) of R 323.2310.
- (c) Any changes to the Baseline Monitoring Report data submitted must be reported to the POTW within 60 days.

Sec. 4.4.3.2. Compliance date report.

- (a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to pretreatment standards and requirements shall submit to SHAWSA a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and requirements and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. The report shall state whether the applicable pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the user and certified to by a qualified professional in accordance with 40 CFR 403.12(b)(6).
- (b) For industrial users subject to production based standards or equivalent mass or concentration limits established by SHAWSA, this report shall include the user's actual production during the appropriate sampling period and a reasonable measure of the user's long term production rate.
- (c) In cases where the Standard requires compliance with Best Management Practice or pollution prevention alternate, the User shall submit documentation as required by SHAWSA or applicable Standards to determine compliance with the Standard.

Sec. 4.4.3.3. Periodic compliance reports.

- (a) Any user designated by SHAWSA as a significant user including those users subject to pretreatment standard, shall submit to SHAWSA during the months of June and December, unless required more frequently in the Pretreatment Standards or by SHAWSA, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, to other requirements for reports under this subdivision, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported pursuant to this ordinance. These reports shall be based on sampling and analysis performed in the period covered by the report and performed in accordance with the techniques prescribed by SHAWSA. At the discretion of SHAWSA and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., SHAWSA may agree to alter the months during which the above reports are to be submitted.
- (b) SHAWSA may impose mass limitations on users where appropriate. In such cases, the report required by subsection (a) of this section shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by SHAWSA, of pollutants contained therein which are limited by the applicable Pretreatment Standards.
- (c) For Industrial Users subject to production-based standards or equivalent mass or concentration limits established by SHAWSA, this report shall include the user's actual production during the appropriate sampling period and a reasonable measure of the user's long-term production rate.
- (d) In cases where the Pretreatment Standard or local limit requires compliance with a Best Management Practice (or a pollution prevention alternative), the User shall submit documentation required by SHAWSA or the Pretreatment Standard necessary to determine the compliance status of the User.

Sec. 4.4.3.4. Reporting requirements for non-significant industrial users.

SHAWSA may require monitoring and reports from users with discharges that are not subject to pretreatment standards and are not otherwise deemed by the control authority to be significant.

Sec. 4.4.3.5. Reporting of additional monitoring results.

If a user subject to periodic reporting requirements under this ordinance or a discharge permit monitors any pollutant more frequently than required by SHAWSA using the procedures prescribed in this ordinance, the results of such monitoring shall be provided to SHAWSA by not later than the user's due date for its next required monitoring report.

Sec. 4.4.3.6. Reporting of violations.

Any user shall report to SHAWSA any violation of the terms of its discharge permit and/or this ordinance as soon as possible and in any case within 24 hours of the time it becomes aware of the violation.

Sec. 4.4.3.7. Resampling after violation.

In the event any user violates any discharge limit contained in its discharge permit, this ordinance, and/or state or federal statute, rule or regulation, it shall resample its effluent for the pollutant(s) causing the violations(s) and provide the results to SHAWSA within 30 days, unless required sooner by SHAWSA. Where SHAWSA has performed the sampling and analysis in lieu of the Industrial User, SHAWSA must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis.

Sec. 4.4.3.8. Additional report requirements.

- (a) All monitoring results must be reported for all permit parameters using required methods according to 40 CFR 403.12(g)(5).
- (b) Reports shall be certified by an authorized representative of the user in accordance with 40 CFR 403.6(a)(2)(ii).
- (c) Sampling for compliance must be representative of Wastewater Discharge per 40 CFR 403.12(g)(3).
- (d) Samples collected for the purpose of satisfying the requirements of this section shall be analyzed in accordance with the techniques prescribed in 40 CRD 136, or the laboratory procedures set forth in the latest edition at the time of the analysis of *Standard Methods for the Examination of Water and Wastewater* provided that to the extent of any conflict, 40 CFR 136 shall be followed. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with methods approved by EPA for that purpose.
- (e) For sampling required in support of baseline monitoring reports and Ninety (90) day compliance reports a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. For facilities for which historic sampling data are available, SHAWSA may authorize a lower minimum number of grab samples.
- (f) For periodic compliance reports, sampling shall be flow-proportional composite sampling unless time-proportional composite samples or grab samples are authorized by SHAWSA. SHAWSA shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.

DIVISION 5. REMEDIES SPECIFIC TO INDUSTRIAL PRETREATMENT

Sec. 4.5.1. Applicability. The provisions in this division apply specifically to violations of this article, and are in addition to the general remedies and enforcement provisions in Article V. To the extent of any inconsistencies with Article V, the provisions of this division shall apply with respect to violations of this article.

Sec. 4.5.2. Operating Upset as Affirmative Defense.

Any discharge that experiences an upset in operations which places the discharger in a temporary state of noncompliance with Categorical Pretreatment Standards, or this Article, or a Wastewater Discharge Permit issued pursuant hereto shall comply with the notification and reporting procedures described in Sec. 4.2.8 for Slug Discharges. A documented and verified bona fide operating upset shall be an affirmative defense to any enforcement action brought by the SHAWSA against a discharger for any noncompliance with the Article or any Wastewater Discharge Permit issued pursuant hereto, which arises out of violations alleged to have occurred during the period of upset. In any enforcement proceeding the discharger seeking to establish the occurrence of an upset shall have the burden of proof. A User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (a) An upset occurred and the Industrial User can identify the causes(s) of the Upset;
- (b) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

- (c) The nondomestic user has submitted the following information to the publicly owned treatment works within 24 hours of becoming aware of the upset:
 - (1) A description of the discharge and cause of noncompliance.
 - (2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
 - (3) Steps being taken or planned to reduce, eliminate, and prevent a recurrence of the noncompliance.

If this information is provided orally, a written submission shall be provided within 5 days of becoming aware of the upset.

Sec. 4.5.3. Other Affirmative Defenses.

A User shall have an affirmative defense in any action brought against it for an alleged violation of the general prohibitions contained in the introductory paragraph to Sec 4.2.1, and those specific prohibitions contained in subsections 4.2.1(2), (9), (10), and (12), where the User demonstrates that:

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

Sec. 4.5.4. Notice of Violation.

Whenever SHAWSA finds that any User has violated or is violating this Article, or a wastewater permit or order issued hereunder, the POTW Superintendent or his agent will serve upon said User a written Notice of Violation. An explanation of the violation and/or a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the POTW Superintendent as required by the Notice of Violation. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation.

Sec. 4.5.5. Consent Orders.

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

Sec. 4.5.6. Show Cause Orders.

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

Sec. 4.5.7. Compliance Orders.

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

Sec. 4.5.8. Cease and Desist Orders.

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

- (a) In an emergency, the order to cease and desist may be given by telephone.
- (b) In non-emergency situations, the cease and desist order may be used to suspend or permanently revoke industrial Wastewater Discharge Permits.
- (c) The cease and desist order may order the User to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

Sec. 4.5.9. Emergency Suspensions.

- (a) The POTW Superintendent may suspend the wastewater treatment service and/or wastewater permit of a User whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.
- (b) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its discharge of wastewater to the system. In the event of a user's failure to immediately comply voluntarily with the suspension order, the POTW Superintendent shall take such steps as deemed necessary, including immediate severance of the sewer connection or termination of the user's water supply, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent shall allow the user to recommence its discharge when the endangerment has passed, unless the termination proceedings set forth in Sec. 4.5.9 are initiated against the user.
- (c) A User which is responsible, in whole or in part, for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of the hearing described in paragraph (b) above.
- (d) SHAWSA is not liable for any costs or damages incurred by the User as a result of an Emergency suspension service.

Sec. 4.5.10. Termination of Wastewater Discharge Permit.

- (a) Any industrial user who violates the following conditions of this ordinance or a Wasterwater Discharge Permit or order, or any applicable state or federal law, is subject to permit termination:
 - (1) Violation of permit conditions;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater constituents and characteristics; or
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.
- (b) Noncompliant Users will be notified of the proposed termination of their wastewater permit and be offered an opportunity to show cause under Sec. 4.5.6 of this Article why the proposed action should not be taken.

ARTICLE V. ADMINISTRATION, ENFORCEMENT, AND FINES

Sec. 5.1. Use Conditional. Use of the system and any discharge into any public sewer is conditional upon compliance with this ordinance including, without limitation, the payment of all rates, fees and charges for such use and the compliance with all orders, directives, permit requirements and requests for information pursuant to this ordinance. Users of the system are required to comply with all such orders, directives, permit requirements and information requests issued or made pursuant to this ordinance.

Sec. 5.2. Remedies Cumulative. All remedies provided in this ordinance are cumulative of each other and of any other remedies available at law or in equity.

Sec. 5.3. Notification of Discharge Required. Any person who knows or has reason to know a discharge into the system or any public sewer within the has occurred or is going to occur in violation of this ordinance shall immediately notify SHAWSA of the time, source, quantity and characteristics, including any offending characteristics, of that discharge. Such notification shall include any corrective actions which have been taken. Such notification shall be followed, within 24 hours, with a written report providing updated information fully disclosing all the above information in addition to a detailed description of how the violation occurred.

Sec. 5.4. Sampling. The SHAWSA may sample or cause to be sampled at such times and frequencies as it may deem appropriate the sewage of any user. If a violation is found after analyses, the violating user may be required to reimburse the system the cost of any such sampling and analyses. Non-Domestic users may be obligated to reimburse the System the cost of any sampling and analyses completed two times each calendar year regardless of whether or not any violation is detected. Such costs may be added to the regular billing for system services or invoiced separately in the discretion of the SHAWSA Board.

Sec. 5.5. Public Nuisances *Per Se*. A violation of this ordinance is declared to be a public nuisance *per se* for which the SHAWSA may avail itself of any remedies available at law or in equity.

Sec. 5.6. Costs. Any person violating any provision of this ordinance may be required, in addition to any other fines or consequences, to reimburse the SHAWSA for any costs either or both of them incur to investigate and prosecute that violation, to remedy or repair any damage to the system as a result of such violation, to pay any fines or penalties incurred by either of them as a result of any violation (such as a resulting violation in an NPDES Permit), to better assure such violations or damages do not recur, to compensate any persons injured or to pay for any damage to property (including natural resources) damaged as a result of any violation and for any other costs either of them incurs as a result of any violation. Costs may include without limitation, engineering and consultant fees, sampling and analytical fees, legal fees, personnel costs, costs for replacing systems equipment or components, fines or penalties paid to the state of Michigan or other agency, equipment rental, and other costs.

Sec. 5.7. Remedies and Cost Recovery.

- (a) Except as provided in Section 5.8, a person who violates a provision of this ordinance may be held responsible for a municipal civil infraction. Each day that a violation occurs is a separate infraction.
- (b) The fines for civil infractions under this ordinance shall generally as follows:
 - (1) First offense – Up to \$100
 - (2) Second offense – Up to \$250
 - (3) Each subsequent offense – Up to \$500
- (c) Notwithstanding subsection (b) above, a violation of Article IV shall subject the violator, including without limitation the owner of the property in violation or on which the violation occurs, to a fine up to \$1,000 for each offense, or other amount allowed by law for each violation of any pretreatment standard or requirement. The following rules apply to violations:
 - (1) Each day that a violation continues shall constitute a separate offense.
 - (2) Each substance or quantity discharged into the system in violation of Article IV shall constitute a separate offense.
 - (3) A separate violation occurs for each pollutant that exceeds an applicable discharge limitation or pretreatment standard.

- (4) If a user is in noncompliance with any discharge limitation or pretreatment standard that is a monthly average, 30-day average, 7-day average or other daily average, then the user has one violation on each day of the averaging period.
- (5) If for any period a User has violated both a maximum and an average discharge limitation or pretreatment standard for a particular pollutant, then the total number of violations is the sum of the days on which the maximum standard was violated and the days in the averaging period.
- (6) One violation occurs on:
 - (A) Each day that a report is late; and
 - (B) Each day after an action required to be completed is not completed.

Sec. 5.8. Misdemeanors.

A person who knowingly submits or prepares for submission to the SHAWSA a false statement, representation, or certification is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or a fine of not more than \$500.00, or both. Each violation constitutes a separate and distinct offense.

Sec. 5.9. Enforcement.

- (a) The SHAWSA shall enforce this ordinance. An official charged with and authorized to enforce this ordinance may issue a citation or an appearance ticket to any person who is reasonably believed to have violated any of provision of this Ordinance.
- (b) The SHAWSA may exercise its enforcement powers against a violator within any constituent municipality and within any municipality in which users have contracted with the SHAWSA for service.
- (c) A constituent municipality or any municipality in which users have contracted with the SHAWSA for service may exercise its enforcement powers against a violator of this ordinance located in territory under its jurisdiction.
- (d) Enforcement powers include the power to bring an action in a court of competent jurisdiction to enjoin the violation of this ordinance, to bring an action to recover actual damages sustained due to a violation of this ordinance, and to be awarded costs and fees in those actions as provided in sections 2401 to 2461 of the Revised Judicature Act of 1961, 1961 P.A. 236, as amended.

Sec. 5.10. Termination of Service.

In case a violation of any provision of this ordinance constitutes or results in an imminent threat to the public health or safety or an imminent violation of an NPDES Permit requirement, the SHAWSA may immediately, upon written notice to the user, terminate the user’s use of the system. In other situations, service may be terminated after written notice and an opportunity for a hearing before the SHAWSA Board. In addition to other remedies provided, the SHAWSA Board, in conjunction with the governing bodies of its constituent municipalities, shall have the right to shut off and discontinue the supply of water to any structure for the nonpayment of sewer bills when due, under the same procedures provided above.

Sec. 5.11. Right of Entry. SHAWSA personnel shall have the right during any reasonable business hours to enter the property or structure of any user to inspect, observe, measure, sample and test to assure compliance with this ordinance. Such persons shall provide identification upon the request of any Property Owner or occupant.

Sec. 5.12. Authorized Officials. SHAWSA shall designate officials authorized to issue municipal civil infraction citations and municipal civil infraction notices by resolution and in accordance with state law.

Sec. 5.13. Appeals.

- (a) Any person aggrieved by decision made or action taken pursuant to this ordinance may appeal in writing to the SHAWSA Board. The SHAWSA Board shall at its next regular meeting or as soon as reasonably possible thereafter either decide to itself hear the appeal as the appeal panel or appoint a separate appeal panel of not less than three persons who may be SHAWSA personnel (provided they are not subordinates to the official from whom the appeal was made), consultants, engineers, attorneys or others and need not be residents of the constituent municipalities.

- (b) The written appeal shall state with specificity the issue being appealed, the basis for the appeal, the supporting facts for the appeal, the supporting legal basis, if any, for the appeal, the relief sought and any other information deemed relevant to the appeal and shall have attached all supporting documents.
- (c) The appeal panel shall provide the appellant and the official from whom the appeal was made notice of the time and place for a hearing on the appeal which shall not be more than 60 days after the appeal was filed and of the rules and procedures to be followed at the hearing. The hearing may be informal and need not follow any formal rules of evidence.
- (d) The appeal panel shall within 30 days after the hearing and any time after the hearing allowed for the filing of supplemental information, render its decision in writing. It may affirm the decision of the official from whom the appeal was made, reverse that decision or modify the decision. It may also condition its decision with terms the appeal panel deems necessary to assure the protection of the public health, safety and welfare, and the protection of the system.
- (e) The decision of the appeal panel shall be final.
- (f) The SHAWSA may charge an appeal application fee in an amount \$150 as established by the SHAWSA Board.

ARTICLE VI. MISCELLANEOUS

Sec. 6.1. Severability.

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

Sec. 6.2. Effective Date. This ordinance was adopted by SHAWSA on April 29, 2019, and shall take effect upon publication of a summary in a newspaper of general circulation in the area served by the SHAWSA.

Sec. 6.3. Repealer. SHAWSA Ordinance 1000 is repealed in full as of the effective date of this ordinance.

CERTIFICATION

We certify that this is a true and complete copy of an ordinance adopted by the SHAWSA Board of Trustees at its regular meeting held on October 28, 2019

Date: October 28, 2019
Updated : January 31, 2023

William Hunter, Board Member