

HEART OF THE VALLEY  
METROPOLITAN SEWERAGE DISTRICT

SEWER USE &  
USER CHARGE ORDINANCE

ORDINANCE NO. 2006-1

Revised: January 13, 2011

# TABLE OF CONTENTS

ARTICLE	SECTION	TITLE	PAGE
I		<b>INTRODUCTION AND GENERAL PROVISIONS</b> .....	5
	1.01	Intent & Purpose .....	5
	1.02	Revenue Application .....	5
	1.03	Authority .....	5
	1.04	Industrial Users .....	5
	1.05	Rules of Construction .....	5
II		<b>DEFINITIONS</b> .....	5
III		<b>ADDITION OF TERRITORY TO DISTRICT</b> .....	13
	3.01	Procedure .....	13
	3.02	Information .....	14
	3.03	Conditions of Addition .....	14
	3.04	Records .....	14
IV		<b>USE OF THE HOVMSD SEWERAGE SYSTEM</b> .....	14
	4.01	General Prohibitions .....	14
	4.02	Specific Prohibitions .....	14
	4.03	Categorical Pretreatment Standards .....	16
	4.04	Modification of Categorical Pretreatment Standards .....	17
	4.05	Specific Pollutant Limitations .....	17
	4.06	State Requirements .....	17
	4.07	HOVMSD's Right of Revision .....	17
	4.08	Excessive Discharge .....	17
	4.09	Accidental Discharge .....	17
	4.10	Change in Discharge .....	18
	4.11	Special Arrangements .....	18
	4.12	New Connections .....	18
	4.13	Prohibitions on Storm Drainage and Groundwater .....	18
	4.14	Alternatives to Acceptance of Wastewater .....	18
V		<b>CONTROL OF WASTEWATER DIRECTED TO HOVMSD FACILITY</b> .....	18
	5.01	Submission of Basic Data .....	18
	5.02	Extension of Time .....	19
	5.03	Industrial Discharges .....	19
	5.04	Control Manholes .....	19
	5.05	Measurement of Flow .....	19
	5.06	Provision of Deductions .....	19
	5.07	Metering of Waste .....	20
	5.08	Waste Sampling .....	20
	5.09	Pretreatment .....	20
	5.10	Grease and/or Sand Traps .....	20
	5.11	Analyses .....	20
	5.12	Submission of Information .....	20
	5.13	Notice of Intent .....	20
	5.14	Discharges from Dental Clinics .....	21
VI		<b>SEWER SERVICE CHARGES AND FEES</b> .....	22
	6.01	District Service Charges .....	22
	6.02	User Charge Rates .....	22
	6.03	Debt Service Rates .....	22

6.04	Measurement .....	22
6.05	Annual Review .....	22
6.06	Amount of Service Charge .....	22
6.07	Replacement Fund Account .....	23
6.08	Connection Fee .....	23
6.09	Schedule of Fees and Charges .....	25
<b>VII</b>	<b>LIMITATIONS ON DISCHARGE OF HOLDING TANK WASTES AND OTHER WASTES .....</b>	<b>25</b>
7.01	Discharge into Community Sewers .....	25
7.02	Discharge at the District's Treatment Facilities .....	25
7.03	Limitations on Discharge of Holding Tank Wastes and Other Wastes .....	25
7.04	Permits to Discharge Holding Tank Wastes .....	26
7.05	Special Provisions Applicable to Licensed Disposers .....	27
7.06	Additional Provisions .....	28
7.07	Industrial Monitoring Charge .....	29
<b>VIII</b>	<b>BILLING PRACTICE AND COLLECTION .....</b>	<b>29</b>
8.01	Billing and Payment .....	29
8.02	Delinquent Payments .....	29
8.03	Alternative Remedies .....	29
8.04	Remedies Cumulative .....	30
<b>IX</b>	<b>RIGHT OF ENTRY, SAFETY AND IDENTIFICATION .....</b>	<b>30</b>
9.01	Right of Entry .....	30
9.02	Right to Enter Easements .....	30
<b>X</b>	<b>ACCESS TO MUNICIPAL RECORDS .....</b>	<b>30</b>
10.01	Access to Records .....	30
10.02	Real Estate Descriptions .....	30
<b>XI</b>	<b>MUNICIPAL SERVICE CHARGE RATES FOR INDIVIDUAL SEWER SYSTEM USERS .....</b>	<b>30</b>
11.01	General .....	30
<b>XII</b>	<b>CONTROL OF MUNICIPAL SEWERAGE SERVICE .....</b>	<b>30</b>
12.01	Sewer Connections .....	30
12.02	Manner of Construction of the Municipal Facility .....	31
12.03	Plans and Constructions .....	32
12.04	Infiltration/Inflow .....	32
12.05	Storm and Other Unpolluted Waters .....	33
12.06	Records of Sewer Plans .....	33
12.07	Information and Reports .....	33
<b>XIII</b>	<b>INFILTRATION/INFLOW REDUCTION PROGRAM .....</b>	<b>33</b>
13.01	Infiltration/Inflow .....	33
<b>XIV</b>	<b>ADMINISTRATION OF SEWERAGE SYSTEM AND INDUSTRIAL DISCHARGE ...</b>	<b>34</b>
14.01	Wastewater Discharge Permits .....	34
14.02	Application Information .....	34
14.03	Permit Modifications .....	35
14.04	Permit Conditions .....	36
14.05	Expression of Pretreatment Standards .....	36
14.06	Bypass Provisions .....	37
14.07	Hazardous Waste Notification .....	37

14.08	Permit Duration .....	38
14.09	Permit Transfer .....	38
14.10	Appeals Procedure .....	38
14.11	Compliance Reporting Requirements for Permittee .....	39
14.12	Periodic Compliance Reports .....	39
14.13	Operating Upsets or Slug or Accidental Discharges .....	40
14.14	Confidential Information .....	41
<b>XV</b>	<b>VIOLATIONS, ENFORCEMENT AND ABATEMENT .....</b>	<b>41</b>
15.01	Violations Constitute Public Nuisances .....	41
15.02	Notice of Violation .....	41
15.03	Special Orders, Appeals Therefrom and Penalties .....	42
15.04	Administrative Enforcement .....	42
15.05	Review of Administrator's Determinations .....	44
15.06	Revocation of Permit .....	44
15.07	Special Orders by the Director and Other Authorities .....	44
15.08	Judicial Remedies .....	44
15.09	Criminal Prosecution .....	45
15.10	Protecting Informants .....	45
15.11	Hazardous Waste Notification .....	45
15.12	Annual Publication of Industrial Users in Significant Noncompliance .....	46
15.13	Appeals from Determinations of the Director .....	46
15.14	Falsifying of Information or Tampering with Facilities .....	46
<b>XVI</b>	<b>MISCELLANEOUS .....</b>	<b>46</b>
16.01	Records Retention .....	46
16.02	Liability to HOVMSD for Losses .....	46
16.03	Emergency Rules .....	47
16.04	Superseding Previous Ordinances .....	47
16.05	Invalidation Clause .....	47
16.06	Amendment .....	47
16.07	Conflict with District's Ordinance .....	47
16.08	Effective Date .....	47
16.09	Date of Enactment .....	47
<b>XVII</b>	<b>SPECIAL ARRANGEMENTS .....</b>	<b>47</b>
17.01	General .....	47
17.02	Special District Permit .....	47

**HEART OF THE VALLEY METROPOLITAN SEWERAGE DISTRICT  
SEWER USE & USER CHARGE ORDINANCE  
ORDINANCE NO. 2006-1**

The Commission of the Heart of the Valley Metropolitan Sewerage District does ordain as follows:

**ARTICLE I - INTRODUCTION AND GENERAL PROVISIONS**

SEC. 1.01 INTENT & PURPOSE This Ordinance regulates the use of public and private sewers and drains, disposal of holding tank wastes into the public sewers, and the discharge of waters and wastes into the public sewerage systems within the District. It provides for wastewater treatment service charges, sets uniform requirements for discharges into the public sewerage system, provides for additions to the District, and sets requirements for connections to sanitary sewers within the District. This Ordinance provides a means for determining wastewater volumes, constituents and characteristics; the setting of charges and fees; and the issuing of permits to certain users. It enables the District to comply with administrative provisions, water quality requirements, toxic and pretreatment effluent standards, and other discharge criteria which are required or authorized by the State of Wisconsin or Federal law. Its intent is to preserve and obtain the maximum use of District facilities for District customers by regulating the characteristics of wastewater discharged into the District interceptor sewer system or public sewerage systems tributary to that interceptor sewer system.

SEC. 1.02 REVENUE APPLICATION. Revenues derived from the application of this Ordinance shall be used to defray the District's costs of operating and maintaining adequate wastewater facilities and to provide sufficient funds for capital outlay, debt service costs and capital improvements. This Ordinance shall supersede any previous District Ordinance, Rules or Regulations relating to the subject matter hereof, and shall repeal all parts thereof that may be inconsistent with this Ordinance. Without intending to limit the generality of the foregoing, this Ordinance is intended to amend and replace, in their entirety, the "Rules and Regulations" of the District previously adopted and updated as of January 19, 1999.

SEC. 1.03 AUTHORITY. This Ordinance is adopted pursuant to and in implementation of Sections 200.11(1)(d) and 200.45 of the Wisconsin Statutes, which gives the District the right to "adopt rules for the supervision, protection, management and use of the systems and facilities operated by the District." The charges and fees herein have been established pursuant to the requirements of Sections 66.0821 and 200.13 of the Wisconsin Statutes. If there is any conflict between this Ordinance and any applicable Statute, the Statute shall be controlling.

SEC. 1.04 INDUSTRIAL USERS. All Industrial users shall be subject to the provisions of this Ordinance.

SEC. 1.05 RULES OF CONSTRUCTION. The following rules of construction are applicable to this Ordinance:

- (1) The use of the masculine gender shall include the feminine gender and vice-versa.
- (2) Use of the word "shall" means the prescription or direction is mandatory.
- (3) Use of the word "may" means the prescription or direction is discretionary.
- (4) When permitted by the context, use of the singular shall be construed to include the plural and of the plural to include the singular.

**ARTICLE II DEFINITIONS**

SEC. 2.01 Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Ordinance, shall have the meanings hereinafter designated:

- (1) "Act" shall mean the Federal Water Pollution Control Act, also know as the Clean Water Act of 1977, as amended, 33 U. S. C. 1251, et. seq. and any other statutes or federal law relating to the subject matter thereof.

- (2) “Actual Customer” shall mean the number of water meters serving a user. If a user’s water consumption is not metered, the Director shall estimate the number and size of the water meter(s) that would otherwise be required to measure such consumption. The Director’s estimate shall be in accordance with generally accepted engineering practices.
- (3) “Ammonia Nitrogen” shall mean ammonia nitrogen, expressed in mg/l of NH<sub>3</sub>N. Quantitative determination of ammonia nitrogen shall be made in accordance with procedures set forth in “Standard Methods.”
- (4) “Applicable Pretreatment Standard” shall mean the most restrictive provisions contained in any pretreatment limitations or prohibitive standards (enacted by federal, state or local governmental entity) and incorporated in this Ordinance, which applicable pretreatment standard shall be complied with by non-domestic wastewater users of the sewerage system.
- (5) “Authorized Representative of User” shall mean the following:
- (a) A responsible corporate officer in charge of a principal business function if the User is a corporation.
  - (b) A general partner or sole proprietor if the User is a partnership or sole proprietorship.
  - (c) A designated member or managing member if the User is a limited liability company.
  - (d) A joint venturer if the User is a joint venture.
  - (e) A duly authorized representative of the User designated above in Subsections (a), (b), (c), or (d) of this section or of any unincorporated association or other type of business entity if the authorization is made in writing and signed by representatives of the User who are acceptable to the Director.
- (6) “BOD (Biochemical Oxygen Demand)” shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter in five (5) days at 20 degrees Celsius (20 C) expressed as milligrams per liter (mg/l). Quantitative determination of BOD shall be made in accordance with procedures set forth in Standard Methods, as defined within.
- (7) “Building Drain” shall mean that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the Building Sewer.
- (8) “Building Sewer” shall mean the sewer pipe extension from the Building Drain to the Public Sewer which generally runs from the building or structure and ends at its connection with a Public Sewer. It is also called House Connection.
- (9) “Bypass” shall mean the diversion of waste streams from any portion of an Industrial User’s, as defined within, treatment facility.
- (10) “Categorical Pretreatment Standards or Pretreatment Standards” shall mean the regulation containing Pollutant, as defined below, discharge limits promulgated by the Environmental Protection Agency (“EPA”) in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users, as defined within.
- (11) “Chlorine Requirement” shall mean the amount of chlorine, in mg/l, which must be added to sewage to produce a specified residual chlorine content in accordance with procedures set forth in Standard Methods, as defined within.
- (12) “COD (Chemical Oxygen Demand)” shall mean the total quantity of oxygen required expressed as mg/l for oxidation of organic matter to carbon dioxide and water using a strong chemical oxidizing agent in an acidic medium. Quantitative determination of COD shall be made in accordance with the procedures set forth in Standard Methods as defined within.

- (13) "Combined Sewer" shall mean a Sewer intended to receive both Wastewater and storm or surface waters.
- (14) "Commercial Discharger" shall mean a User who discharges Domestic Wastewater into the District's Facility that originates from any of the following:
- (a) Transient lodging;
  - (b) Establishments rendering service to others including food service; or
  - (c) Retail and wholesale establishments selling merchandise to others.
- (15) "Commission" shall mean the Commission of the District as defined and with such powers as set forth in Section 200.01, et seq, of the Wisconsin Statutes, as amended from time to time.
- (16) "Commissioners" shall mean the Commissioners of the District.
- (17) "Community" or "Municipality" shall mean any county, city, village, town, town sanitary district, utility district, state agency or federal agency that is served by the District and which is billed directly by the District for such sewerage service.
- (18) "Community Sewer" shall mean any sanitary sewer owned and/or operated by any Municipality, which sewer is tributary to an intercepting sewer or treatment facility owned or operated by the District.
- (19) "Compatible Pollutants" shall mean Biochemical Oxygen Demand (BOD), Suspended Solids, Ammonia Nitrogen, phosphorous, pH, or fecal coliform bacteria, plus additional Pollutants identified in the WPDES Permit issued from time to time to the District for the wastewater treatment facility, provided such facility was designed to treat such Pollutants, and, in fact, does remove such Pollutants to a substantial degree.
- (20) "Cooling Water" shall mean the water discharged from any use including, but not limited to air conditioning, cooling or refrigeration, or to which the only Pollutant added is heat.
- (21) "Direct Discharge" shall mean the discharge of treated or untreated Wastewater directly to the waters of the State of Wisconsin.
- (22) "Director" shall mean the Engineer/Manager of the District, or other authorized representative duly appointed by the Commission.
- (23) "Discharger" (See User definition, below.)
- (24) "District" shall mean the Heart of the Valley Metropolitan Sewerage District, a regional sewerage district governed by the Commission.
- (25) "District Approving Authority" shall mean the District.
- (26) "District Customer" shall mean a city, village, town sanitary district or utility district, or a county, state or federal agency which is billed directly by the District for sewerage service provided.
- (27) "DNR" shall mean the Wisconsin Department of Natural Resources.
- (28) "Domestic Wastewater" shall mean water carried waste which has the same characteristics as the Wastewater normally being discharged by a Residential Discharger.
- (29) "Environmental Protection Agency" ("EPA") shall mean the U.S. Environmental Protection Agency, or its duly authorized representative.
- (30) "Equivalent Residential Unit" or ("ERU") shall mean a single family dwelling unit having a single Equivalent Water Meter.

(31) “Equivalent Water Meters” or (“EWM”) shall mean the number of equivalent 5/8-inch meters and shall be based on the following:

<b>Meter Size</b>	<b>Number of Equivalent 5/8-inch Meters</b>
5/8-inch	1
¾-inch	1
1-inch	2.5
1-1/4-inch	3.7
1-1/2-inch	5
2-inch	8
3-inch	15
4-inch	25
6-inch	50
8-inch	80
10-inch	120
12-inch	160

Where a User does not have a water meter(s) for measuring the User’s water consumption, the Director shall estimate the number and size of water meter(s) that would otherwise be required to serve that User, based upon standard engineering practices; and the equivalent meters shall then be determined on this estimate.

(32) “Facility” shall mean the District’s Wastewater Treatment Plant as defined below.

(33) “Floatable Oil and Grease” shall mean fatty acids, soaps, fats, waxes and petroleum products. Petroleum oil, non-biodegradable cutting oils, or products of mineral origin are determined by non-polar methods. Animal and vegetable oils and greases (polar substances) are biodegradable.

(34) “Flow Proportional Sample” or “Composite Sample” shall mean a sample consisting of portions of waste taken in proportion to the volume of flow of said waste.

(35) “Garbage” shall mean a residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.

(36) “Grab Sample” shall mean the sample that 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.

(37) “Ground Garbage” shall mean Garbage that has been shredded to such a degree that all particles will be carried freely in suspension under the flow conditions normally prevailing in Public Sewers, as defined within, with no particle greater than one-half (1/2) inch in any dimension.

(38) “Holding Tank” shall mean the storage tank in which Holding Tank Wastes are collected for off site disposal.

(39) “Holding Tank Waste” shall mean the scum, liquid, sludge or other waste from Holding Tanks such as chemical toilets, campers, trailers, privies, septic tanks and other temporary holding facilities; and shall include wastes from a soil absorption field. The term does not include the waste from a grease trap.

(40) “House Connection” (See Building Sewer definition, above.)

(41) “HOVMSD” shall mean the District.

(42) “HOVMSD Facility” (See Wastewater Treatment Plant definition, below.)

(43) “HOVMSD Sewerage System” shall mean the HOVMSD interceptor sewers, metering stations, collection systems and the treatment plants, which are owned, operated and maintained by the District.

(44) “Incompatible Pollutants” shall mean the Pollutants within Wastewater that will adversely effect or disrupt the quality of treatment if discharged to a wastewater treatment facility.

- (45) "Indirect Discharge" shall mean the discharge or the introduction of non-domestic Pollutants, as defined within, from any source regulated under Sections 307 (b) or (c) of the Act into the HOVMSD Facility.
- (46) "Industrial User" shall mean any discharger who is neither a Residential Discharger, nor a Commercial Discharger, and discharges into the Sewerage System by any means.
- (47) "Industrial Waste" shall mean the Wastewater from industrial processes, trades, or businesses as distinct from Wastewater discharged from Residential or Commercial Dischargers.
- (48) "Infiltration" shall mean the water unintentionally entering the public sewer system, including sanitary building drains and sewers, from the ground through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls. Infiltration does not include, and is distinguished from, inflow.
- (49) "Inflow" shall mean the water discharge into the sanitary sewer system, including building drains and sewers from such sources as, but not limited to the following: roof leaders, cellar, yard, and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and/or combined sewer, catch basins, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguishable from, infiltration.
- (50) "Intercepting Sewer" or "Interceptor" shall mean any sanitary sewer owned or operated by the District.
- (51) "Interference" shall mean the discharge which, alone or in conjunction with a discharge or discharges from other sources, either:
- (a) Inhibits or disrupts the HOVMSD Sewerage System, its treatment processes or operations, or its sludge processes, use or disposal: or
  - (b) Is a cause of a violation or caused an increase in the magnitude or duration of a violation of any requirement of the HOVMSD Facility's WPDES permit, or causes the prevention of sewage sludge use or disposal by the District
- (52) "Licensed Disposer" or "Licensed Hauler" shall mean a person holding a license under Section 146.20(3)(a), Wisconsin Statutes, to haul and to dispose of Holding Tank Wastes and/or Septic Tank Wastes.
- (53) "May" is permissive.
- (54) "Municipal Approving Authority" shall mean the authorized representatives of a Municipality, as defined within, identified as such to HOVMSD by the Municipality.
- (55) "Municipality" or "Community" shall mean a county, city, village, utility district, town sanitary district, state agency or federal agency that is served by the HOVMSD Sewerage System, and which is billed directly by the District for such sewer services.
- (56) "Municipal Facilities" shall mean the sewer systems, structures, equipment, and processes owned by a Municipality used to collect and carry away Wastewater to the HOVMSD Sewerage System.
- (57) "National Categorical Pretreatment Standards" shall mean any regulation or order containing pollutant discharge limitations as promulgated by the U.S. Environmental Protection Agency in accordance with Section 307(b) and (c) of the Federal Act, which limitations apply to one or more specific categories of Industrial Users.
- (58) "National Prohibitive Discharge Standard or Prohibitive Discharge Standard" shall mean the regulation developed under the authority of Section 307 (b) of the Act and 40 CFR, Part 403.5.
- (59) "Natural Outlet" shall mean any outlet, including Storm Sewers, as defined within, and Combined Sewer, as defined within, overflows, into a watercourse, pond, ditch, lake, or other body of surface water or groundwater.
- (60) "New Source" shall mean:

- (a) Any existing Permit Holder which does not hold a Wastewater Discharge Permit; or
- (b) Any building, structure, facility or installation after the publication of Categorical Pretreatment Standards from which there is or may be a discharge of Wastewater containing Pollutants, subject to the Categorical Pretreatment Standards which is:
  - 1. Constructed at a site at which no other source is isolated;
  - 2. Totally replaces the process of production equipment that causes the discharge of Pollutants at an existing source; or
  - 3. The production of Wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site.

(61) "Non-Domestic Wastewater" shall mean any Wastewater which is not Domestic Wastewater

(62) "Operation and Maintenance Costs" shall include all costs associated with the operation and maintenance of the HOVMSD Sewerage System, as well as the costs associated with periodic equipment replacement necessary for maintaining capacity and performance of wastewater collection and treatment facilities, all determined in accordance with applicable accounting principles.

(63) "Pass Through" shall mean the discharge which exits the HOVMSD Facility into waters of the United States and/or the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is the cause of a violation of any requirement of the District's WPDES Permit or increases the magnitude or duration of a violation.

(64) "Permit Holder" shall mean any person required to obtain a Wastewater Discharge Permit.

(65) "Person" shall mean any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, governmental agency, limited liability company, partnership, or other entity.

(66) "pH" shall mean the reciprocal of the logarithm of the hydrogen concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen ion concentration of one ten millionth moles/liter.

(67) "Phosphorus" shall mean total phosphorus and is expressed in mg/l of P (phosphorus).

(68) "Pollutant" shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, industrial, municipal, and agricultural waste discharged into water.

(69) "Pollution" shall mean the man made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(70) "Pretreatment" shall mean the reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutants in Wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such Pollutants into a Public Sewer.

(71) "Pretreatment Requirements" shall mean any local or state requirements related to Pretreatment, other than a Categorical Pretreatment Standard imposed on a User.

(72) "Prohibitive Discharge Standards" (see National Prohibitive Discharge Standard.)

(73) "Public Nuisance" or "Nuisance" shall mean any condition described by Wisconsin law as constituting a public or private nuisance.

(74) "Publicly Owned Treatment Works (POTW)" shall mean a treatment works as defined by Section 212 of the Act, which is owned by the District, a state, a municipality, or an intermunicipality, or an intermunicipal agency. This definition includes any devices and systems used in the storage treatment, recycling, or

reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey Wastewater to a POTW treatment plant.

(75) "Public Sewer" shall mean any sewer owned by a Municipality, public utility or any governmental authority, including the District..

(76) "Public Sewerage System" shall mean all Public Sewers, structures, appurtenances, conduits and pipelines by which wastewater is collected and disposed of, including the wastewater treatment works, excepting plumbing inside of and in connection with buildings and properties served, and excepting Building Sewers.

(77) "Receiving Waters" shall mean the body or bodies of water to which the treated water from the District's wastewater treatment plant is discharged.

(78) "Replacement Costs" shall mean the expenditures for constructing, purchasing and installing equipment, accessories, or appurtenances which are necessary during the service life of the District's Sewerage System to maintain the capacity and performance for which such facilities were designed and constructed, as well as operation and maintenance costs for the same.

(79) "Representative Sample" shall mean a sample of the appropriate wastewater stream collected using 24-hour flow proportional composite sampling techniques where feasible. If an industrial process does not operate for 24 hours per day, the sample shall be collected during the time the process is discharging wastewater. Samples to be analyzed for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics shall be grab samples. An industrial user may use another sampling method if it demonstrates and certifies to the District's satisfaction that it is more representative than flow proportional testing.

(80) "Residential Discharger" shall mean any User who discharges Domestic Wastewater into Public Sewers from a single or multi-family dwelling or boarding house (not including transient lodging).

(81) "Responsible Officer" shall mean:

- (a) A president, secretary, treasurer or vice president of a corporation in charge of a principal business function or any other person who performs a similar policy- or decision-making functions for a corporation; or
- (b) A manager/member of a limited liability company; or
- (c) The manager of one or more manufacturing, production, or operations facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million, if authority to sign documents has been assigned or dedicated to the manager in accordance with corporate procedures; or
- (d) A general partner of a partnership or sole proprietorship, respectively.

(82) "Sanitary Sewage" shall mean the water-carried wastes discharged from toilets and/or sanitary plumbing facilities, together with such ground, surface, and storm waters as may be present.

(83) "Sanitary Sewer" shall mean a Sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions, and other structures, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

(84) "Segregated Domestic Wastes" shall mean the wastes from residential sources resulting from normal domestic activities which are measurable and set apart from industrial, trade, cooling water, and/or process water discharge wastes.

(85) "Septic Tank" shall mean the settling tank in which settled sludge is in immediate contact with the Wastewater, as defined within, flowing through the tank and the organic solids are decomposed by anaerobic bacterial action.

(86) "Septic Tank Waste" shall mean any waste from Septic Tanks; it also is referred to as septage.

- (87) "Sewage" shall mean the Wastewater.
- (88) "Sewer" shall mean the pipe or conduit that carries Wastewater.
- (89) "Sewerage System" shall mean a Public Sewerage System.
- (90) "Shall" is mandatory.
- (91) "Significant Non-compliance" shall mean that an Industrial User is not in compliance with applicable standards and requirements, such that any of the conditions specified in NR 211.23(1)(j), Wis. Admin. Code, as amended from time to time, are found to exist.
- (92) "Significant Industrial User" shall mean any of the following:
- (a) All Users, subject to Categorical Pretreatment Standards; or
  - (b) Any other Users that:
    1. Discharges an average of twenty five thousand (25,000) gallons per day or more of Wastewater to the District's Facility (excluding sanitary, non-contact cooling and boiler (blowdown wastewater) ); or
    2. Contribute a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the District's Facility; or
    3. Is designated as such by the District's Facility as defined in 40 CFR 403.12 (a) on the basis that the Industrial User has a reasonable potential for adversely affecting the District's Facility operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8 (f)(6)).

Provided, however, that an Industrial User meeting the criteria set forth above will not be deemed a Significant Industrial User if in accordance with 40 CFR 403.8 (f) (6), the Director determines, on the Director's own initiative or in response to a petition received from an Industrial User, that such Industrial User has no reasonable potential for adversely affecting the District's Facility operation or for violating any pretreatment standard or requirement or for violating the Categorical Pretreatment Standards, as defined within.

(93) "Slug" shall mean any discharge of Wastewater which adversely affects the system and/or performance of the District's Facility, or which in concentration with any given Pollutants, or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes, more than five (5) times the average twenty-four (24) hour flow or Pollutant concentration during normal operation; except that the term shall not include Infiltration and Inflow discharges in wet weather conditions..

(94) "Slug Loading" shall mean the discharge of any Pollutant, as defined within, including oxygen-demanding Pollutants released in a single extraordinary discharge episode of such volume or strength as to cause interference to the wastewater system.

(95) "Standard Industrial Classification ("SIC")" shall mean the classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

(96) "Standard Methods" shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage, and Industrial Wastes" published jointly by the American Public Health Association, the American Water Works Association, and the Federation of Sewage and Industrial Wastes Association.

(97) "Standard Specifications" shall mean the most current edition of "Standard Specifications for Sewer and Water Construction in Wisconsin"

- (98) "Storm System" shall mean the drain or sewer for conveying water, groundwater, subsurface water, or unpolluted water from any sources.
- (99) "Suspended Solids" shall mean the solids that either float on the surface of, or are in suspension in, water, Wastewater, or other liquids, and that are removable by laboratory filtering as prescribed in Standard Methods.
- (100) "Time Proportionate Sample" shall mean a sample consisting of equal portions of waste taken at regular time intervals.
- (101) "Total Kjeldahl Nitrogen ("TKN")" shall mean the quantity of organic nitrogen and ammonia as determined in accordance with 40 CFR Part 136, or as EPA otherwise determines.
- (102) "Toxic Pollutant" shall mean the Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency.
- (103) "Upset" shall mean an incident in which an Industrial User is in a state of non-compliance with the standards set forth in this Ordinance.
- (104) "Unpolluted Water" is water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.
- (105) "User" shall mean any Person who contributes, causes or permits the contribution of Wastewater, industrial discharges or any other wastewater into the public sewerage system.
- (106) "User Charge" shall mean the charge levied on Municipalities and others for payment of operation, maintenance, replacement and debt service costs of the District's sewerage facilities.
- (107) "Wastewater" shall mean the spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and storm water that may be present.
- (108) "Wastewater Discharge Permit" shall mean a Permit issued pursuant to ARTICLE XIV of this Ordinance.
- (109) "Wastewater Facilities" shall mean the District's structures, equipment and processes which are designed to collect, carry and treat domestic wastewater and industrial discharges.
- (110) "Wastewater Parameters" shall include volume, BOD, suspended solids, Ammonia Nitrogen, Phosphorus, Actual Customers, equivalent meters, and such additional parameters as may from time to time be determined by the District.
- (111) "Wastewater Treatment Plant" or "Facility" shall mean the District's arrangement of devices and structures for treating domestic wastewater and industrial discharges. Sometimes used as synonymous with "wastewater treatment" or "wastewater treatment works" or "water pollution control works."
- (112) "Waters of the State" shall mean the 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 of Wisconsin or any portion thereof.
- (113) "Wisconsin Pollutant Discharge Elimination System ("WPDES") Permit" shall mean the document issued by the Wisconsin State Department of Natural Resources which establishes effluent limitations and monitoring requirements for the HOVMSD Facility, as defined within. WPDES Permit No. WI-0031232-2 and modifications thereof pertain to the HOVMSD Facility.

### **ARTICLE III – ADDITION OF TERRITORY TO DISTRICT**

SEC. 3.01 PROCEDURE. Territory may be added to the District in accordance with the provisions of Section 200.15, Wisconsin Statutes, as amended from time to time. Where an addition is by direct petition to the District pursuant to Section 200.15(2), Wisconsin Statutes, the petitioning municipality shall pay to the District an "Addition Charge" in such amount as the Commission may determine, to cover the cost of the public hearing to be held with respect to the proposed addition. Unless the Commission determines to waive such payments, the payment of the Addition Charge shall be made at such time as the Commission determines. The Commission reserves the right to adjust annually, the amount of the foregoing Addition Charge, by resolution duly adopted by the Commission.

SEC. 3.02 INFORMATION. A petition for addition pursuant to Section 200.15, Wisconsin Statutes, shall be accompanied by such information as required by law and as may be required by the Director in order for the Commission to act with respect to such petition.

SEC. 3.03 CONDITIONS OF ADDITION. Territory which is added to the District in accordance with the provisions of Section 200.15, Wisconsin Statutes, as amended from time to time, shall be subject to such connection charges and Addition Fees as the Commission may from time to time determine. Such connection charges and Addition Fees shall be billed to and paid by the Municipality in which the added territory is located, at such time or times as the Commission may determine.

SEC. 3.04 RECORDS. Whenever territory is added to the District pursuant to Section 200.15, Wisconsin Statutes, the Municipality where the territory is located shall provide to the District an accurate legal description of the said territory, together with a scale map thereof. Such description and map shall be provided no later than 30 days after the effective date of the addition of said territory.

#### **ARTICLE IV - USE OF THE HOVMSD SEWERAGE SYSTEM**

SEC. 4.01 GENERAL PROHIBITIONS. No Person shall discharge or cause to be discharged any unpolluted waters into any public sanitary sewer. No User shall contribute or cause to be contributed, directly or indirectly, any Pollutant or Wastewater which will interfere with the operation or performance of the District's Facility. These general prohibitions apply to all such Users of the HOVMSD Facility whether or not the User is subject to Categorical Pretreatment Standards or any other national, state, or local Categorical Pretreatment Standards or requirements. No Person shall discharge wastes to a public sewer which cause, or are capable of causing either alone or in combination with other substances:

- (1) A fire or explosion hazard including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F or 60°C using the test methods specified in 40 CFR 261.21;
- (2) Obstruction of flow or damage to the wastewater facilities;
- (3) Danger to life or safety or welfare of any persons;
- (4) Air pollution as defined in Section 144.01(1), Wisconsin Statutes, as amended from time to time, and any regulations or orders of any regulatory agency issued thereunder. This shall include pollutants which result in the presence of toxic gases, vapors, or fumes within the sewer system or the treatment plant in a quantity that may cause acute worker health and safety problems;
- (5) Prevention of effective maintenance or operation of the wastewater facilities;
- (6) Any product of the District's treatment processes or any of the District's residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with reclamation processes;
- (7) A detrimental environmental impact, a public nuisance, or any condition unacceptable to any public agency having regulatory jurisdiction over the District;
- (8) Any sanitary sewer or the District's wastewater facilities to be overloaded;
- (9) In the opinion of the Director, excessive District collection and treatment costs, or use of a disproportionate share of the District's facilities;

(10) Violation of the District's WPDES permit.

SEC. 4.02 SPECIFIC PROHIBITIONS. Except as hereinafter provided, no Person shall discharge or cause to be discharged any of the following into any Public Sewer:

(1) Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, gas, or other Pollutant which creates a fire or explosion hazard in the Sewerage System including, but not limited to, waste streams with closed cup flashpoints of less than one hundred forty degrees Fahrenheit (140 F) or sixty degrees Centigrade (60 C) using the test methods specified in 40 CFR 261.21.

(2) Wastewater containing toxic Pollutants or poisonous solids, liquids, or gases in sufficient quantity which either alone or by interaction with other Pollutants:

- (a) causes fumes within the Sewerage System;
- (b) creates a toxic effect;
- (c) cause a public nuisance in the receiving waters of the Sewerage System; or
- (d) exceeds the limitation set forth in applicable Categorical Pretreatment Standards set forth in this Ordinance..

(3) Wastewater having a pH lower than six (6.0) or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater collection and treatment facilities.

(4) Wastewater having a pH in excess of ten and one-half (10.5).

(5) Solid or viscous substances in quantities or of such size capable of causing: a) obstruction to the flow in Public Sewers; or b) other interference with the proper operation of the wastewater collection and treatment facilities, such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails, and paper dishes, cups, and milk containers, either whole or ground by garbage grinders.

(6) Wastewater with any of the following characteristics or containing any of the following Pollutants:

- (a) Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150 F) or sixty five degrees Celsius (65 C) or any Wastewater which, in combination with other Wastewater, will cause the temperature of the raw Wastewater entering the wastewater collection and treatment facilities to exceed one hundred four degrees Fahrenheit (104 F) or forty degrees Celsius (40 C).
- (b) Wastewater containing more than twenty-five (25) mg/l of petroleum oil, non-biodegradable cutting oils, or oils of mineral origin which will cause interference or pass through (non-polar substances).
- (c) Wastewater from Users containing Floatable Oils, fat, grease or wax, whether emulsified or not in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures from zero to sixty five degrees Celsius (0-65° C) or thirty two to one hundred fifty degrees Fahrenheit (32-150° F) at the point of discharge as analyzed for in accordance with Standard Methods (polar substances).
- (d) Any Garbage that has not been properly shredded.
- (e) Any waters or wastes containing iron, chromium, copper, zinc, and similar, objectionable toxic substances to such degree that any such material received in the composite Wastewater at the wastewater collection and treatment facilities exceeds the limits established by the Director for such materials.

- (f) Any waters or wastes containing odor-producing substances exceeding limits which may be established by the Director.
- (g) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable state or federal regulations.
- (h) Quantities of flow, concentrations, or both, which constitute a Slug.
- (i) Any waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes of the HOVMSD Facility.
- (j) Any water or wastes which, by interaction with other water or wastes in the Sanitary Sewer system, releases obnoxious gasses, form Suspended Solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- (k) Materials which exert or cause:
  1. Unusual BOD, chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the wastewater collection and treatment facilities.
  2. Unusual concentrations of inert Suspended Solids (such as, but not limited to, fuller's earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium sulfate).
  3. Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
- (l) Wastewater containing more than 750 mg/L of chlorides.

The Director may set limits lower than the limitations set forth above in this paragraph if, in the District Approving Authority's sole opinion, more severe stringent limitations for limited periods of time are necessary in order to avoid:

- i) Harm to the Sewerage System:
- ii) Endangerment of public health; or
- iii) A public nuisance.

(7) Any substance which may cause the HOVMSD Facility's effluent or any other product of the HOVMSD Facility 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 HOVMSD Facility cause the HOVMSD Facility to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations affecting sludge use or disposal criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.

(8) Any sludges, floats, skimmings, etc., generated by an Industrial or Commercial User's pretreatment system. Such sludges shall be contained, transported, and disposed of by haulers in accordance with all Federal, State, and Local regulations.

(9) Any Holding Tank Wastes and Septic Tank Wastes shall be discharged at points designated by the Director. The discharge of such wastes shall comply with this Ordinance and Article VII, below. In addition such wastes shall not exceed a total BTEX concentration of one (1.0) mg/l and a total benzene concentration of five tenths (0.5) mg/l.

(10) Any substances in amounts or concentration that can interfere with the flow of wastewaters within the sanitary sewerage systems, in violation of 40 CFR Part 403.5

**SEC. 4.03 CATEGORICAL PRETREATMENT STANDARDS.**

(1) Upon the promulgation of the Categorical Pretreatment Standards for a particular industrial subcategory, the Categorical Pretreatment Standards, if more stringent than limitations imposed under this Ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this Ordinance and shall be enforceable in accordance with the provisions of this Ordinance.

(2) New Sources shall install and have in operating condition, and shall “start-up” all Pollution control equipment required to meet applicable Categorical Pretreatment Standards before beginning to discharge. Within the shortest feasible time (not to exceed ninety (90) days), New Sources must meet all applicable Categorical Pretreatment Standards.

**SEC. 4.04 MODIFICATION OF CATEGORICAL PRETREATMENT STANDARDS.** Where the HOVMSD’s Facility achieves consistent removal of Pollutants limited by Categorical Pretreatment Standards, the District may apply to the EPA for modification of specific limits in the Categorical Pretreatment Standards. The phrase “consistent removal” shall mean reduction in the amount of a Pollutant or alteration of the nature of a Pollutant in the influent to a POTW to a less toxic or harmless state in the effluent which is achieved by that POTW.

The HOVMSD may modify Pollutant discharge limits in the Categorical Pretreatment Standards, if the requirements contained in 40 CFR, Part 403.7, are fulfilled and prior approval is obtained from the Director.

**SEC. 4.05 SPECIFIC POLLUTANT LIMITATIONS.** No Person shall discharge Wastewater containing the following Pollutants in excess of the following twenty-four (24) hour average concentrations:

0.3 mg/L	Cadmium
4.0 mg/L	Chromium
4.0 mg/L	Copper
0.69 mg/L	Lead
0.4 mg/L	Mercury
4.1 mg/L	Nickel
4.2 mg/L	Zinc
1.9 mg/L	Cyanide
0.003 ug/L	Polychlorinated biphenyls (PCBs)

**SEC. 4.06 STATE REQUIREMENTS.** State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or than those set forth in this Ordinance.

**SEC. 4.07 HOVMSD’s RIGHT OF REVISION.** The District reserves the right to establish by additional ordinance more stringent limitations or requirements on discharges to the HOVMSD Facility if deemed necessary to comply with the objectives presented in Article I of this Ordinance.

**SEC. 4.08 EXCESSIVE DISCHARGE.** No User shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in any applicable Categorical Pretreatment Standards, or in any other Pollutant-specific limitation developed by the District or state of Wisconsin. The District may impose mass limitations on Industrial Users which are using dilution to meet applicable Categorical Pretreatment Standards or Pretreatment Requirements or in other cases where the imposition of mass limitations is appropriate.

**SEC. 4.09 ACCIDENTAL DISCHARGES.** Each Industrial User or any other User as determined by the Director (a “Potential Accidental Discharge User”) shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance (a “Spill”) which protection shall be

acceptable to the Director. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the expense of the Potential Accidental Discharge User.

Each Potential Accidental Discharge User shall submit a Spill prevention plan showing facilities and operating procedures to provide this protection to the Director for review and approval. Review and approval of such plans and operating procedures shall not relieve the Potential Accidental Discharge User from the responsibility to modify its facility as necessary to meet the requirements of this Ordinance.

A notice shall be permanently posted in a prominent place on each Potential Accidental Discharge User's premises advising employees of whom to call in the event of a Spill. Employers shall ensure that all employees are advised of the emergency notification procedure.

**SEC. 4.10 CHANGE IN DISCHARGE.** All Industrial Users shall promptly notify the District in advance of any substantial change in the volume or character of Pollutants in their discharge.

**SEC. 4.11 SPECIAL ARRANGEMENTS.** No provisions contained in this Ordinance shall be construed as prohibiting any special agreement between the Director and any Person whereby Wastewater of unusual strength or character may be admitted to the wastewater collection and treatment facilities, either before or after pretreatment, provided that:

- (1) There is no impairment of the functioning of the wastewater collection and treatment facilities by reason of the admission of such wastewater;
- (2) No extra costs are incurred by the District or the Municipality without recompense by the Person; and
- (3) That all rates and provisions set forth in this Ordinance are recognized and adhered to.

**SEC. 4.12 NEW CONNECTIONS.** New connections to the Sewerage System will be allowed only if there is available capacity in all of the downstream portions of the Public Sewerage System.

**SEC. 4.13 PROHIBITIONS ON STORM DRAINAGE AND GROUNDWATER.**

- (1) Stormwater, groundwater, rain water, street drainage, roof runoff, and subsurface drainage shall not be discharged into community sewers without prior approval of the Community and the District, or into intercepting sewers without the prior approval of the District.
- (2) Polluted stormwater runoff from limited areas may be discharged to the sanitary sewer upon approval by the Director, payment of applicable charges and fees, and compliance with conditions required by the Community and the District.

**SEC. 4.14 ALTERNATIVES TO ACCEPTANCE OF WASTEWATER.** If any waters or wastes are discharged or are proposed to be discharged to the public sewers, in excess of those limitations enumerated in this Article, the Director in the exercise of his reasonable discretion, may:

- (1) reject the wastes;
- (2) require pretreatment;
- (3) control the quantities and rates of discharge; and/or
- (4) recover the increased costs of handling and treating such wastes from the person discharging the wastes.

## **ARTICLE V - CONTROL OF WASTEWATER DIRECTED TO HOVMSD FACILITY**

**SEC. 5.01 SUBMISSION OF BASIC DATA.**

- (1) Each Person, except Residential Dischargers who discharge to a Public Sanitary Sewer or who file a connection request with a Municipality, shall prepare and file with the Director a report that shall include pertinent data relating to the quantity and characteristics of the Wastewater discharged to the Sewerage

System (the "Report"). Relying on the information supplied in the Report, the Director will determine whether a User will be required to obtain a Wastewater Discharge Permit. The data contained in the Report shall be updated annually at the request of the Director.

- (2) The Report shall contain the following information:
  - (a) Name, address, and location of the User;
  - (b) The User's S I C number according to the Standard Industrial Classification Manual, Bureau of Management and Budget, as amended;
  - (c) Concentration data for those Pollutants regulated by applicable limitations as set forth in this Ordinance for each outfall which discharges non-domestic Wastewater into the Sewerage System;
  - (d) A list of environmental control permits held by the User relative to any area subject to the jurisdiction of the Commission;
  - (e) The time and duration of discharges, including average daily Wastewater flow rates, for each outfall which discharges non-domestic Wastewater into the District's Facility. All flows for this purpose shall be measured unless other verifiable techniques are approved by the Director;
  - (f) A statement indicating whether or not applicable limitations as contained in this Ordinance are being met on a consistent basis and, if not, what additional operation and maintenance activities and/or additional pretreatment facilities will be required for the discharge to achieve compliance with the applicable limitations contained herein; and
  - (g) Where additional pretreatment and/or operational and maintenance activities will be required to achieve compliance with applicable limitations, the User shall provide a compliance schedule by which the User will implement such additional pretreatment and/or additional, operational and maintenance activities per Article XIV of this Ordinance.

SEC. 5.02 EXTENSION OF TIME. When it can be demonstrated that circumstances exist which would create an unreasonable burden on the Person to comply with the requirements imposed by Section 5.01, above, a request for extension of time may be presented to the Director for consideration. Such extension of time may be granted in the sole discretion of the Director.

SEC. 5.03 INDUSTRIAL DISCHARGES. If any Wastewaters are discharged or are proposed to be discharged to the Public Sewers, which Wastewaters contain substances or possess the characteristics enumerated in Article IV or elsewhere in this Ordinance and which, in the judgment of the Director may have a deleterious effect upon the wastewater collection and treatment facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life, health, or constitute a public nuisance, the Director may implement any of the alternatives described in Section 4.14, above.:

SEC. 5.04 CONTROL MANHOLES.

- (1) Each Industrial User who is required to have a Permit as determined by the Director under Section 5.01, above, discharging into the District's sewerage system shall construct and maintain one or more control manholes or access points to facilitate observation, measurement, and sampling of the Industrial User's Wastewater including its Domestic Wastewater.
- (2) Control manholes or access facilities shall be located and built in a manner acceptable to the Director. If measuring devices are to be permanently installed, they shall be of a type acceptable to the Director.
- (3) Control manholes, access facilities, and related equipment shall be installed by the Industrial User discharging the wastewaters, at the Industrial User's expense, and shall be maintained by the Industrial User so as to be in safe condition, accessible, and in proper operating condition at all times. Plans for installation of the control manholes or access facilities and related equipment shall be approved by the Director prior to the beginning of construction.

SEC. 5.05 MEASUREMENT OF FLOW. The volume of flow used for computing industrial waste collection and treatment charges shall be the metered water consumption of the Person as shown in the records of meter readings maintained by the appropriate Municipality except as noted in Sections 5.06 and 5.07, below.

SEC. 5.06 PROVISION OF DEDUCTIONS. In the event that an Industrial User (i) is directly billed by the District for sanitary sewer service and (ii) is discharging Industrial Waste into the Sanitary Sewers, produces evidence satisfactory to the Director that more than 20 percent of the total annual volume of water used for all purposes does not reach a public Sanitary Sewer, then the determination of the water consumption to be used in computing the waste volume discharged into the Sanitary Sewer may be made a matter of agreement between the Director and the Industrial User, and determined as provided for in Article XVII, below.

SEC. 5.07 METERING OF WASTE. Devices for measuring the volume of Wastewater discharged may be required by the Director if this volume cannot otherwise be determined from the metered water consumption records. Metering devices for determining the volume of Wastewater shall be installed, owned, and maintained by the Industrial User. Following approval and installation, such meters may not be removed without the consent of the Director.

SEC. 5.08 WASTE SAMPLING. Industrial Wastewater discharged into the Sanitary Sewers shall be subject to periodic inspection and a determination of character and concentration of said Industrial Wastewater's. The Industrial User shall make the determination as often as may be deemed necessary by the Director. Samples shall be collected in such a manner as to be representative of the composition of the Industrial Wastewaters. The sampling may be accomplished either manually or by the use of mechanical equipment acceptable to the Director. Installation, operation, and maintenance of the sampling facilities shall be the responsibility of the Industrial User discharging the Industrial Wastewater and shall be subject to the approval of the Director. Access to sampling locations shall be granted to the Director or its duly authorized representative at all times. Every care shall be exercised in the collection of samples to ensure their preservation in a state comparable to that at the time the sample was taken.

SEC. 5.09 PRETREATMENT. Where required, in the opinion of the Director, to modify or eliminate Industrial Wastewaters that are harmful to the structures, processes, or operation of the wastewater collection and treatment facilities, the Industrial User shall provide, at its sole cost and expense, such preliminary treatment or processing facilities as may be determined necessary to render its Industrial Wastewaters acceptable for admission to the District's sewerage system.

SEC. 5.10 GREASE AND/OR SAND TRAPS. Grease, oil, and sand traps shall be provided when required by law or, in the opinion of the Director, they are necessary for the proper handling of liquid wastes containing floatable grease in excessive amounts, as specified in Article IV of this Ordinance or any flammable wastes, sand, or other harmful ingredients, except that such traps shall not be required for private living quarters or dwelling units. All traps shall be located as to be readily and easily accessible for cleaning and inspection. In maintaining these traps, the owner (s) shall be responsible for the proper removal and disposal by appropriate means of the captured material, and shall maintain records of the dates and means of disposal as may be reasonably requested by the Director and which records shall be periodically provided to the Director. Disposal of the collected materials performed by owner's (s') personnel or currently licensed waste disposal firms must be in accordance with current WDNR rules and regulations. .

SEC. 5.11 ANALYSES. All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this Ordinance shall be determined in accordance with the latest edition of the Standard Methods and with the Federal Regulations 40 CFR 136 "Guidelines Establishing Test Procedures for Analysis of Pollutants." Sampling Methods, locations, times, durations, and frequencies are to be approved by the Director. Determination of the character and concentration of the Industrial Wastewater's shall be made by the Industrial User discharging them, or its agent, as designated and required by the District Approving Authority. The Director may also make its own analyses of the wastes, and these determinations shall be binding as a basis for User Charges.

SEC. 5.12 SUBMISSION OF INFORMATION. Plans, specifications, and any other pertinent information relating to proposed flow equalization, pretreatment, or processing facilities shall be submitted for review of the Director prior to the start of construction, if the effluent from such facilities is to be discharged into the Public Sewers.

SEC. 5.13 NOTICE OF INTENT. The following persons shall file a written notice of intent with the Director at least sixty (60) days prior to commencing discharge of any sort to the Public Sewerage System:

- (1) Users purchasing an existing facility from which a discharge of non-domestic Wastewater into the District's sewerage system is proposed;
- (2) Users constructing a new facility from which a discharge of non-domestic Wastewater into the District's sewerage system is proposed;
- (3) Users proposing to discharge any non-domestic Wastewater into the District's sewerage system from a facility which currently discharges only domestic Wastewater; or
- (4) Users planning to alter or change the activity at the Users' facility that would significantly increase or decrease the volume or alter the content of any existing source of Wastewater discharged to the District's sewerage system including the listed or characteristic hazardous wastes for which a User has submitted initial notification. This does not include changes in volume or content resulting from shifts in existing production levels at the Users' facility.

The notice of intent shall be submitted in writing to the Commission and shall contain such information as required to allow the Director to evaluate the effect of the proposed discharge on its facilities and operations and to assure compliance with this Ordinance. The notice of intent shall be signed by a responsible Officer of the User or its designee. A copy of the notice of intent shall also be submitted to the Municipality in which the discharge will occur. The User must receive a Wastewater Discharge Permit or modification of an existing Wastewater Discharge Permit from the Director prior to commencing any discharge. Based on the Director's evaluation of the notice of intent, the User may be issued a Wastewater Discharge Permit or modification to an existing Wastewater Discharge Permit, as appropriate.

#### SEC. 5.14 DISCHARGES FROM DENTAL CLINICS

- (1) This section applies to discharges from dental clinics where amalgam is placed or removed. For the purpose of this section, a dental clinic is a non-mobile facility dedicated to the examination and treatment of patients by a health care professional specializing in the care of teeth, gums and oral tissue. This section does not apply to orthodontics, periodontics, oral and maxilla-facial surgery, endodontics, prosthodontics or other practices that do not place or remove amalgam, or which are identified by the Director as de-minimus contributors.
- (2) Dental clinics that place or remove amalgam shall implement best management practices for amalgam as established by the Wisconsin Dental Association and/or the Wisconsin DNR from time to time.
- (3) Dental clinics shall install, operate and maintain an amalgam separator meeting the criteria of the International Standards Organization (ISO 11143) for every vacuum system receiving amalgam waste. Amalgam separators shall be installed, operated, and maintained according to instructions provided by the manufacturer. The amalgam separator shall have a design and capacity appropriate for the size and type of vacuum system.
- (4) When a dental clinic is implementing the requirements of Section 5.4(2) and (3), then any numerical discharge limit for mercury established in this Ordinance does not apply.
- (5) Dental clinics will annually submit reporting information to the District using forms provided by the District. Reporting information may include:
  - (a) Certification that the amalgam separator is operated and maintained in accordance with instructions provided by the manufacturer.
  - (b) Certification that best management practices for amalgam as established by the Wisconsin Dental Association are being implemented.
  - (c) Any other information deemed relevant by the Director.
- (6) Dental clinics shall obtain recycling records for each shipment showing the volume or mass of amalgam waste shipped, the name and address of the destination, and the name and address of the

contractor. Dental clinics shall maintain these records for a minimum of two years. Dental clinics shall make these records available to the District for inspection and copying upon request by the Director.

(7) Dental clinics shall allow the District to inspect the vacuum system, amalgam separator, amalgam waste storage areas, and other areas deemed necessary by the District to determine compliance with this section. Inspections shall occur during the normal operating hours of the dental clinic.

## **ARTICLE VI - SEWER SERVICE CHARGES AND FEES**

SEC. 6.01 DISTRICT SERVICE CHARGES. Sewer service charges to each District customer shall be based on wastewater parameters established from time to time by the Commission. The sewer service charge rates shall consist of the sum of the District's user charge rates and the District's debt service rates.

SEC. 6.02 USER CHARGE RATES. The District shall determine, from time to time, user charge rates based on the District's annual operations and maintenance expense (including replacement costs), the annual administrative budget, the quantity and quality of wastewater received at the District's wastewater treatment plant, and such additional rate parameters as the Commission may from time to time determine. Such rates shall reflect the unit costs for administration and for transporting and treating the quantity and quality of wastewater discharged to the District's wastewater facilities.

SEC. 6.03 DEBT SERVICE RATES. The District shall determine debt service rates based on the District's annual debt service, and/or capital improvement budget, the quantity of wastewater received at the District's wastewater treatment plant, and such additional rate parameters the Commission may from time to time determine. Such rates shall reflect the unit costs for construction of facilities funded with the indebtedness being retired, and for capital improvement projects funded directly from revenues raised by the District from other sources.

SEC. 6.04 MEASUREMENT. The unit of volume measurement for wastewater discharged into the District's wastewater collection and treatment facilities shall be gallons, United States Liquid Measure. The unit for assessing costs with respect to strength wastewater parameter shall be pounds.

SEC. 6.05 ANNUAL REVIEW. The District's sewer service charge shall be reviewed at least annually by the Commission for purposes of establishing appropriate rates so as to generate sufficient revenues to pay for the debt service, administrative, and the operation and maintenance expenses (including replacement costs) of the District's wastewater facilities.

SEC. 6.06 AMOUNT OF SERVICE CHARGE. Service Charges for each of the HOVMSD's Customers shall be determined pursuant to the formula presented below:

$$SC = (V_1 \times C_V) + 8.34 \times V_2 [(B \times C_b) + (S \times C_S) + (P \times C_P) + (A \times C_a)] + X$$

Where:

SC = Service Charge to Municipalities.

V<sub>1</sub> = Wastewater volume in thousand gallons, for the billing period.

C<sub>V</sub> = Cost/volume (Cost is expensed as \$ per 1000 gallons)

V<sub>2</sub> = Wastewater volume in million gallons, for the billing period.

B = Concentration of Biochemical Oxygen Demand (BOD) in milligrams per liter (mg/l) in the Wastewater.

C<sub>b</sub> = Cost per pound of BOD.

- S = Concentration of Suspended Solids in milligrams per liter (mg/l) in the Wastewater.
- C<sub>S</sub> = Cost per pound of Suspended Solids. (ss)
- P = Concentration of phosphorus in milligrams per liter (mg/l) in the Wastewater.
- C<sub>p</sub> = Cost per pound of phosphorus. (p)
- A = Concentration of Ammonia Nitrogen in Milligrams per Liter (mg/l) in the Wastewater.
- Ca = Cost per pound of Ammonia Nitrogen.
- X = Certain fixed operating costs and expenses, as allocated by the Commission, to such rate parameters as the Commission may from time to time establish.

The Unit cost for each rate parameter shall be calculated from information generated by the individual Municipalities and the District and shall be reviewed routinely and approved by the Commission.

The User Charge volume rate (“Cv”) shall be determined by dividing the sum of the cost components allocated to volume proposed in the upcoming year’s budget by the collective average total of the preceding year’s or years’ contributions of Wastewater received as an estimate of the succeeding year of Wastewater anticipated to be contributed, to wit:

$$\{Cv = \text{Cost Allocated to Volume From Budget Hearing} \div \text{Estimated succeeding year's Wastewater volume in 1000 gallons.}\}$$

The User charge BOD rate (“Cb”) shall be determined by dividing the sum of cost components allocated to BOD proposed in the upcoming year’s budget by the collective average total of the preceding year’s or years’ contributions of BOD loadings received as an estimate of the succeeding year’s BOD loadings anticipated to be contributed.

$$\{Cb = \text{Cost Allocated to BOD From Budget Hearing} \div \text{Estimated succeeding year's BOD contributions in pounds.}\}$$

The User Charge Suspended Solids rate (“Cs”) shall be determined by dividing the sum of the cost components allocated to Suspended Solids proposed in the upcoming year’s budget by the collective average total of the preceding year’s or years’ contributions of Suspended Solids loadings received as an estimate of the succeeding year’s Suspended Solids loadings anticipated to be contributed.

$$\{Cs = \text{Cost Allocated to Suspended Solids From Budget Hearing} \div \text{Estimating succeeding year's Suspended Solids contributions in pounds.}\}$$

The User Charge phosphorus rate (“Cp”) shall be determined by dividing the sum of the cost components allocated to phosphorus proposed in the upcoming year’s budget by the collective average total of the preceding year’s or years’ contributions of phosphorus loadings received as an estimate of the succeeding year’s phosphorus loadings anticipated to be contributed.

$$\{Cp = \text{Cost Allocated to Phosphorus From Budget Hearing} \div \text{Estimated succeeding year's phosphorus contributions in pounds.}\}$$

The User Charge Ammonia Nitrogen Rate (Ca) shall be determined by dividing the sum of the cost components allocated to ammonia nitrogen in the upcoming year’s budget by the collective average total of the preceding year’s or years’ contributions of ammonia nitrogen loadings received as an estimate of the succeeding year’s ammonia nitrogen loadings anticipated to be contributed.

$$\{Ca = \text{Cost Allocated to Ammonia Nitrogen From Budget Hearing} \div \text{Estimate Succeeding Year's Ammonia Nitrogen Contributions.}\}$$

SEC. 6.07 REPLACEMENT FUND ACCOUNT. The annual replacement revenues shall be maintained in a separate account to be used solely for the purpose of purchasing replacement parts and/or equipment. Funds may be withdrawn from this account for authorized use only with the approval of the Director and the Commission. The Commission may, by resolution, preauthorize the Director to withdraw funds from the Replacement Fund Account for the following purposes, in an amount not to exceed a dollar limit imposed from time to time by the Commission.

SEC. 6.08 CONNECTION FEES.

(1) Policy. Each Municipality shall pay to the District a "Connection Fee" for each building sewer connection made to a Municipal Facility on and after the effective date of this Ordinance. Said Connection Fee shall be paid to the District by the Municipality within which the connection is made no later than thirty (30) days after the end of the calendar month within which the actual connection is made. The Connection Fee is a proportionate share of the excess capacity costs of the District's Sewerage System, and is authorized pursuant to Section 66.0821(4), Wisconsin Statutes. The HOVMSD Wastewater Treatment Plant was constructed with an anticipated physical life of 20 years. This long life necessitates design and construction of facilities of sufficient capacity to serve present users, plus additional capacity (commonly referred to as excess capacity) to serve future users. It is reasonable that future users, as well as present users of the HOVMSD Wastewater Treatment Plant, pay for the total cost of the facility that serves them. Since future users are not charged until they become actual users, it is necessary to collect costs related to excess capacity from present users. HOVMSD believes it to be unfair for a future user of the Wastewater Treatment Plant to make no payment towards the cost of excess capacity, particularly when that cost has been borne by present users prior to the time of actual connection by future users. It is HOVMSD's goal to recover Capital Costs, Interest Costs, and Carrying Costs in charges levied against new areas served. In that regard, the Commission has adopted this Sec. 6.08.

(2) Connection Fees. As of April 1, 2006, the following Connection Fees are hereby established:

- Fee A - \$474 per ERU
- Fee B - \$1003 per ERU

(Herein collectively the "Connection Fees" or individually "Fee A" or "Fee B," as the case may be.)

- (a) Fee A is intended to recover a proportionate share of the cost of excess capacity resulting from the District's 1995 wastewater treatment plant expansion. Fee B is intended to recover a proportionate share of the cost of excess capacity resulting from the District's 2006 wastewater treatment plant expansion.
- (b) Each Municipality shall pay to the District the Connection Fees for each Building Sewer connection made to its Municipal Facilities on or after April 1, 2006 (the "Effective Date"). In determining the Connection Fees, the following shall apply. First, the Equivalent Water Meter(s) for the structure(s) served by the Building Sewer shall be ascertained. Once so ascertained, the number of Equivalent Residential Units applied to such Equivalent Water Meter shall then be determined. The Connection Fees shall equal the sum of Fee A and Fee B (determined as of the calendar year within which the Building Sewer connection actually occurs) multiplied by the number of Equivalent Residential Units so determined.
- (c) Fee A shall be adjusted on January 1 of each year commencing with the year 2007, to each of the following amounts:

Calendar Year of Building Sewer Connection	Fee A Per ERU
2007	498

2008	524
2009	550
2010	579
2011	609
2012	640
2013	673
2014	708
2015	745

- (d) Commencing January 1, 2007, and each January 1 thereafter, Fee B shall be adjusted by the then most recent annual rate of change (from December to December) in the Consumer Price Index. For these purposes, "Consumer Price Index" shall mean the Consumer Price Index – Urban Wage Earners and Clerical Workers for Milwaukee-Racine, Wisconsin, not seasonally adjusted, as it appears in the periodical Consumer Price Indexes, as published by the United States Department of Labor, Bureau of Labor Statistics, or any successor thereto. If the said Consumer Price Index shall ever cease publication, the Commission shall select a substitute therefor.
- (e) Any Connection Fee(s) not so paid by the due date shall bear interest at the rate of 18.0% per annum from date of connection until paid to HOVMSD.
- (f) The Director, acting on behalf of HOVMSD, shall have access to all sewerage and water records of any Municipality located within HOVMSD. Such records shall be made available to the Director upon his/her request. Whenever any Municipality is required to file with the Wisconsin Public Service Commission a report disclosing the number of water meters installed within that Municipality at any particular point in time, a copy of said report shall be similarly filed with the Director.
- (g) For purposes of administering the provisions of this Section 6.08, the following shall apply:
1. A Building Sewer connection to Municipal Facilities shall be deemed to have occurred as of the date the Municipality in question issues a sewer connection permit (or any such equivalent permit) authorizing the subject connection; provided, however, such connection does in fact occur within the lesser of: (i) the time period expressly authorized in the subject sewer connection permit (or any such equivalent permit) or (ii) the expiration of six (6) months after date of issuance of said permit.
  2. Where a sewer connection permit (or any such equivalent permit) authorizing the connection of a Building Sewer has been issued by a Municipality at any time prior to the Effective Date of this Section 6.08, it shall be assumed that the connection of the subject Building Sewer occurred prior to the Effective Date; provided, however, such connection does in fact occur within the time period provided for in the subject permit or the expiration of six (6) months, whichever is earlier. If no time period is set forth in the permit, then the time period shall equal six (6) months.
  3. When the actual connection of the Building Sewer does not occur within the time period(s) provided for in subsection (g)1. or (g)2., above, then in any such events, no connection shall be deemed to have occurred; and any subsequent connection of the said Building Sewer shall be subject to the provisions of this Section 6.08.
- (h) No person may prepay Connection Fees prior to the date of actual issuance of a sewer connection permit for the Building Sewer in question for any purpose, including but not limited to

acquiring capacity in the District sewerage system or avoidy scheduled increases in the amount of the Connection Fees. No person shall acquire any vested right or privilege as a result of payment of the Connection Fees, unless and until the Building Sewer in question is actually connected to the public sewerage system.

(3) Increased Discharge. In the event any existing User substantially increases his/her/its wastewater discharges into the public sewerage system and such increased discharge occurs over a period of twelve (12) consecutive calendar months, then in such event the Commission may impose additional Connection Fee(s) attributable to such User, upon such terms and conditions as the Commission may reasonably determine.

SEC. 6.09 SCHEDULE OF FEES AND CHARGES. This Ordinance establishes a number of permit fees and other charges for administrative services. All such fees and charges (exclusive of Connection Fees and District Sewer Charges as provided for in Sections 6.01, 6.02, 6.03 and 6.08) shall be established annually by resolution duly adopted by the Commission, prior to January 1 of the year in question.

## **ARTICLE VII – LIMITATIONS ON DISCHARGE OF HOLDING TANK WASTES, SEPTIC TANK WASTES AND OTHER WASTES**

SEC. 7.01 DISCHARGE INTO COMMUNITIY SEWERS. No person, including a licensed disposer, shall discharge any Holding Tank Wastes or Septic Tank Wastes, or any other liquid, gaseous or solid wastes directly into a manhole or other opening in a community sewer, without the prior written approval of the District Authority.

SEC. 7.02 DISCHARGE AT THE DISTRICT'S TREATMENT FACILITIES.

(1) Discharge of Holding Tank Wastes, Septic Tank Wastes and other wastes may be allowed at the District's wastewater treatment plant or at such other location and in such manner and at such place as may be designated by the Director. Any person desiring to discharge such wastes at the District's treatment plant shall first make application to the Director for a permit to discharge. The person making the discharge shall pay to the District all applicable fees and sewer service charges, based on the characteristics of the discharge.

(2) Industrial wastes, wastes from remediation projects, or any other liquid, gaseous or solid wastes not detrimental to the District's wastewater treatment plant may be discharged at such plant in a manner designated by the Director when, in his judgment, the waste is of such unusual character or strength that rapid discharge into the sewerage system would have detrimental effects on the wastewater facilities. Any person desiring to discharge such wastes at the District's treatment plant shall first make application to the Director for a permit to discharge. The person making the discharge shall pay to the District all applicable fees and sewer service charges, based on the characteristics of the discharge.

(3) The licensed disposer making the discharge shall pay to the District any additional costs or expenses associated with the provision of additional facilities or personnel necessary to accept such waste at the point of introduction into the District's wastewater treatment plant.

SEC. 7.03 LIMITATIONS ON DISCHARGE OF HOLDING TANK WASTES, SEPTIC TANK WASTES AND OTHER WASTES. Unless the Director otherwise allows, any Holding Tank Waste, Septic Tank Waste, or other waste permitted to be discharged under Sec. 7.02 hereof, shall be of domestic origin, or contain compatible pollutants only. The person or licensed disposer making the discharge under this Article shall comply with the provisions of any and all applicable rules and regulations; and shall comply with this Ordinance. Without intending to limit the application of other provisions of this Ordinance, such person or licensed disposer shall not deposit or drain any gasoline, oil, acid, alkali, grease, rags, volatile or flammable liquids, or other deleterious substances into any manhole or community sewer, or into the District's wastewater facility; nor shall such person or licensed disposer allow any grease, earth, sand or other solid materials to pass into any part of the sewerage system; nor shall such person or licensed disposer discharge any liquid, gaseous or solid wastes determined by the Director to be detrimental to the sewerage system or to the District's employees or to the process of sewage treatment. No discharges shall be permitted directly into any of the District's interceptor sewers, unless the Director so authorizes.

SEC. 7.04 PERMITS TO DISCHARGE HOLDING TANK WASTES, SEPTIC TANK WASTES AND OTHER WASTES.

(1) No discharge shall be made under Sections 7.02 or 7.03 hereof, unless the person or licensed disposer making the discharge has been issued a permit by the Director. All applications for a permit shall be in writing; shall contain such information as the Director deems appropriate; and shall be submitted to the Director no later than September 1 of each year. No permit once issued shall be assignable or transferable by the person receiving the same. All such permits shall be valid for a period of one year, beginning on January 1, and expiring on December 31 of each year. No holder of any permit shall acquire any vested right or privilege by reason thereof.

(2) If the Director determines to issue a permit under Sec. 7.02 hereof, such permit may be issued upon such terms and conditions as the Director may provide; and any such permit shall provide at a minimum the following:

- (a). The permit shall be conditioned upon the holder's faithful compliance with the provisions of this Ordinance, as amended from time to time.
- (b). The agreement of the holder thereof to indemnify the District from and against any and all liability for injury or damage arising out of or related to the activities of holder in exercising the rights granted. The District may require the holder of such permit to post a bond written by a bonding company licensed to transact business in Wisconsin, to guarantee performance of the holder thereunder.
- (c). The agreement of the holder thereof to have in full force and effect sufficient worker's compensation insurance, public liability and property damage insurance.
- (d). The Director may impose such limitation and prohibition on the nature and character of the wastes described in this Article VII as may be necessary and reasonable in order not to adversely affect treatment plant operations.

(3) In the event the Director issues a permit under Sec. 7.02 hereof, the permit holder shall be required to pay an annual fee in such reasonable amount as it may determine as a condition precedent to the issuance of such permit.

(4) Any permit issued under Sec. 7.02 shall be revocable by the Director summarily for violation of the terms or conditions thereof.

(5) Any person or licensed disposer using or permitting the use of the District's sewerage system or a public sewerage system for a use for which a permit may be issued under this Article, without first obtaining a permit or continuing a use after notice of revocation of a permit, shall forfeit to the District the sum of \$1,000 for each violation. Such forfeiture shall be recoverable by the District in a civil action brought by the Commission in the name of the District and paid into the general funds of the Commission for the benefit of the District. In addition, such person or licensed disposer shall pay to the District any damages, costs or expenses incurred by the District in connection with such unpermitted use.

SEC. 7.05 SPECIAL PROVISIONS APPLICABLE TO LICENSED DISPOSERS. Any licensed disposer making application for a permit to discharge Holding Tank Wastes, Septic Tank Wastes, or other wastes under Section 7.04 hereof, shall comply with the provisions contained in Section 7.04 hereof, as well as the following:

- (1) The permit issued to the licensed disposer under Section 7.04 shall also provide:
  - (a) The District will accept such wastes during the calendar year, at such specific times as the Director may determine; and the Director reserves the right to reject and refuse acceptance if such wastes are offered for disposal at any other time.
  - (b) The District shall have the right to reject and refuse to accept such wastes from the licensed disposer if:

1. Treatment of the waste would cause the District's sewerage system to exceed its operating design capacity or to violate any applicable effluent limitations or standards, water quality standards, or any other legally applicable requirements, including court orders or state or federal statutes, rules, regulations or orders;
  2. The waste is not compatible with the District's sewerage system;
  3. The licensed disposer has not applied for and received a permit under Section 7.04 to dispose of the waste in the District sewerage system or the licensed disposer fails to comply with the permit so issued; or
  4. The licensed disposer fails to comply with waste disposal rules promulgated by the District from time to time or fails to pay the appropriate sewer service charges in a timely manner.
- (c) The Director may impose reasonable terms and conditions for holding tank waste disposal into the wastewater treatment plant relating to the following:
1. Specific quantities, locations, times, and methods for discharge of such wastes into the District's sewerage system;
  2. Requirements to report the source and amount of such wastes placed in the District's sewerage system; and
  3. Requirements that the licensed disposer analyze representative samples of the waste placed in the District sewerage system in order to determine the characteristics of the waste and the compatibility of the waste with the District's sewerage system.
- (b) If the District's sewerage system can accept some, but not all, of such wastes offered for disposal, the Director may accept such waste which is generated within the geographic boundaries of the District before accepting such wastes which are generated outside of the boundaries of the District.
- (c) Provided the conditions of this Article VII are satisfied, the Director shall grant to a licensed disposer a permit to discharge holding tank wastes.

#### SEC. 7.06 ADDITIONAL PROVISIONS.

- (1) Any licensed disposer of Holding Tank Wastes and/or Septic Tank Wastes shall carry public liability insurance in an amount not less than One Million Dollars (\$1,000,000) to protect any and all Persons or property from injury and/or damage caused in any way or manner by an act, or the failure to act, by any of the Waste Hauler's employees. The Waste Hauler shall furnish a certificate certifying such insurance to be in full force and effect.
- (2) Wastewater volume of each truckload shall be determined on the basis of actual gallons;
- (3) Septic Tank and Holding Tank waste pollutant's characteristic values will be determined independently for each Waste Hauler. The Pollutant concentration for each Waste Hauler will determine the loading level reflected on the rate charged. The Director will determine the analytical average of the data base determination and the data review frequency. The BOD, Suspended Solids, Ammonia Nitrogen, or Phosphorous strength characteristic determination will be by analytical analysis of the Waste Hauler's disposed liquid. The Pollutant concentration determined by the analytical data base will allow a fluctuation in the concentration value without penalty within the following guidelines;
- (a) The User Charge assessed to the Waste Hauler will be calculated based on pollutant concentration established in Article VI, above, unless, at the Waste Hauler's expense, the quality of the Septic Tank or Holding Tank Waste contributed to the HOVMSD is determined prior to its disposal by a lab acceptable to the Director. The rate to be charged for flow, BOD,

Suspended Solids, Ammonia Nitrogen, and Phosphorus will be calculated under the same rate parameters, as established in Article VI, Sewer Service Charges and Fees.

- (b) Along with the charge for the quality and quantity of the Wastewater disposed, there will be a per load administrative charge established from time to time by the Commission for billing preparation, sample analysis and manpower;
- (c) Fluctuation greater than the following waste pollutant's concentration for Septic Tanks and Holding Tanks wastes as defined by definition will be assessed a Slug loading penalty of twice the then existing parameter rate per unit charge for all parameters.
  - 1. The Septic Tank waste penalty charge will activate at a BOD strength characteristic of seven thousand (7,000) mg/l or a Suspended Solids strength characteristic of fifteen thousand (15,000) mg/l or a Phosphorus strength characteristic of one hundred fifty five (155) mg/l or Ammonia Nitrogen of 800 mg/l;
  - 2. The Holding Tank waste penalty charge will activate at a BOD strength characteristic of six hundred (600) mg/l or a Suspended Solids strength characteristic of one thousand eight hundred (1,800) mg/l or a Phosphorus strength characteristic of thirty (30) mg/l or Ammonia Nitrogen of 75 mg/l.

(4) The Commission may by resolution adopted annually, add surcharges to the User Fees imposed hereunder, in order to reflect the added costs in processing and treating such wastes, which are not discharged into the sewage collection system; and may differentiate in surcharges between areas which are within and without the District's sewer service area.

**SEC. 7.07 INDUSTRIAL MONITORING CHARGE.** The Commission may impose upon Industrial Users a monitoring charge to provide for the recovery of costs for the implementation of the program established herein. The applicable charges or fees shall be set forth in the District's Schedule of Charges and Fees, to be established from time to time, by the Director and approved by the HOVMSD Commission. The District may adopt charges and fees which may include the permit fee, sampling charge, and laboratory analysis charge. These charges shall be assessed to the Industrial Users.

(1) Permit Fee. The District will charge the Users that are required to obtain a permit per Section 5.01 (a "Permit User") a permit fee determined annually by the Director and approved by the Commission.

(2) Sampling Charge. The District will assess Permit Users a sampling charge for sampling Wastewater with District equipment and manpower. The sampling charge shall be determined annually by the Director and approved by the Commission.

(3) Laboratory Analysis Charge. The District will assess Permit Users a laboratory analysis charge to recover the District's expenses for analyzing specific Pollutants. The charges for tests of toxic organic Pollutants and toxic inorganic Pollutants will be determined by the commercial laboratory retained by the District to perform the analysis.

Additional costs as established by the District will be charged to Industrial Users on a case by case basis for removal by the District Facility of Pollutants otherwise subject to Categorical Pretreatment Standards.

These fees relate solely to the matters covered by this Ordinance and are separate from all other fees chargeable by the District.

## **ARTICLE VIII - BILLING PRACTICE AND COLLECTION**

**SEC. 8.01 BILLING AND PAYMENT.** Sewer service charges shall be billed to each District Customer on a monthly basis, unless circumstances require a delayed billing. Such charges shall be payable by the District Customer to the District on or before the thirtieth day of the month after the month of such billing, unless the District has extended the time for payment.

**SEC. 8.02 DELINQUENT PAYMENTS.** Sewer service charges, connection fees or other charges due from any District Customer or user shall be deemed to be a debt due to the District from that District Customer or

user, and shall be deemed to be delinquent if not paid in accordance with the provisions of this Ordinance. Interest shall be paid on any such amounts that have been delinquent at the rate of 1.5% per month until paid. If such sewer service charges, connection fees or other charges remain delinquent for thirty (30) days, the Commission may, on behalf of the District, commence an action in a court of competent jurisdiction, and recover from such District Customer the amount of such delinquency and any damages sustained by the District as a result of the District Customer's or user's failure to pay, and together with such collection costs and expenses as may be allowed by law. Any Municipality or user which receives sewerage service without paying sewer service charges when due shall be deemed to have waived any statutory or ordinance requirement that the District first file with such Municipality notice of claim and a claim for monies due, as a condition precedent to the commencement of any such action.

SEC. 8.03 ALTERNATIVE REMEDIES. As an alternative to collection of delinquent sewer service charges, connection fees or other charges as provided in Section 8.02 hereof, the District may require any such District Customer to levy and collect sewer service charges in the manner provided for in Sections 66.0821(4)(a) and (d) of the Wisconsin Statutes, as amended from time to time.

SEC. 8.04 REMEDIES CUMULATIVE. All remedies provided for in this Ordinance are distinct and cumulative to any other right or remedy under this Ordinance or afforded by law or equity; and may be exercised by the District concurrently, independently or successively.

#### **ARTICLE IX - RIGHT OF ENTRY, SAFETY AND IDENTIFICATION**

SEC. 9.01 RIGHT OF ENTRY. The Commission, the Director or other duly authorized employees of the District, bearing proper credentials and identification, shall be permitted to enter all properties for the purpose of inspection, observation or testing, all in accordance with the provisions of this Ordinance and law.

SEC. 9.02 RIGHT TO ENTER EASEMENTS. The Commission, the Director, or other duly authorized employees of the District, bearing proper credentials and identification, shall be permitted to enter all private properties through which the District holds an easement, license or other right for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewerage works lying within said easement, license or other right, all subject to the terms, if any, thereof.

#### **ARTICLE X – ACCESS TO MUNICIPAL RECORDS**

SEC. 10.01 ACCESS TO RECORDS. The Director, acting on behalf of the Commission, shall have access to all sewerage records of any Municipality in the District. Upon request of the Director, each Municipality within the District shall submit to the District copies of plans of any public sewerage system, or any portion thereof, as may be located therein.

SEC. 10.02 REAL ESTATE DESCRIPTIONS. Upon request of the Commission, each Municipality within the District shall provide the Director with an accurate real estate description of their respective corporate limits and a map thereof.

#### **ARTICLE XI – MUNICIPAL SERVICE CHARGE RATES FOR INDIVIDUAL SEWER SYSTEM USERS**

SEC. 11.01 GENERAL. Each District Customer shall adopt and maintain in effect rates and rules associated with sewer service charge rates for individual sewer system users in compliance with Section 281.57(8)(c), Wisconsin Statutes, and any administrative rules promulgated thereunder.

#### **ARTICLE XII – CONTROL OF MUNICIPAL SEWERAGE SERVICE**

SEC. 12.01 SEWER CONNECTIONS.

(1) Every connection made singularly and collectively to the Sewerage System or an extension thereof shall be subject to this Ordinance. Any connection made to the Sewerage System other than a Residential Discharger or a Commercial Discharger shall not be made without written connection authorization from Director.

(2) Any Municipality proposing to construct or extend a Sanitary Sewer shall not commence construction of any part thereof without first obtaining the Commission's approval or the approval of the Director, if such authority has been delegated to the Director previously. Application for this approval shall include the following:

- (a) A statement of the location or locations at which connection to the Sewerage System is desired;
- (b) Two (2) complete sets of plans and specifications meeting the requirements of this Ordinance along with the completed (WDNR) forms for sewer extensions and a specification checklist which shall include the following:
  - 1. A location map;
  - 2. Size and type of sewer pipe;
  - 3. Grades;
  - 4. Elevations of the inverts at manholes;
  - 5. Elevations of manhole tops;
  - 6. Distance between manholes;
  - 7. Complete details of all appurtenances;
  - 8. Name of Inspector; and
  - 9. Approximate start and end dates for construction.
- (c) A map showing the service area of the Sanitary Sewer proposed to be constructed.

All applications for connection authorization submitted to the Director shall first be forwarded to the appropriate local regional planning agency for review and comment

(3) Any Municipality applying for construction approval or connection authorization shall receive a written statement of the Director approving or denying the application no later than thirty (30) days after receipt of said application by the Director. Any approval so granted shall be conditioned upon:

- (a) Notification of the construction start date no later than 3 working days prior to the beginning of construction;
- (b) The receipt of satisfactory results if sewer and manhole leakage tests in accordance with stated specifications provided by the District from time to time. Such tests must be performed and results submitted to the Director prior to connection of the new sewer to the public sewerage system.
- (c) Such additional terms and conditions as the Director deems reasonable and appropriate in order to implement the policies contained in this Ordinance.

(4) Any decision by the Director approving or denying an application under this Section 12.01, above, shall be subject to appeal pursuant to Section 15.13 of this Ordinance. Reasons for the denial of any application for construction approval or connection authorization may include but are not limited to the following:

- (a) Municipality does not have a current comprehensive plan accepted by the local regional planning agency;
- (b) In the judgment of the Director, the proposed connection is not consistent with adopted local and regional plans;

- (c) The construction plans are not acceptable to the Director;
- (d) There is not sufficient down stream capacity in the public sewers or at the District's Facilities to treat the anticipated wastewater flows; or
- (e) The area to be served by the extension is not in an approved sewer service area as established by the appropriate regional planning commission.

(5) Notwithstanding construction approval or connection authorization, notice shall be given to Director at least seventy-two (72) hours before proceeding with any authorized connection to a District Interceptor. If the Director requests, the actual construction or connection shall be made in the presence of the District Inspector.

**SEC. 12.02 MANNER OF CONSTRUCTION OF THE MUNICIPAL FACILITY**

- (1) Any portion of a Municipal Facility shall:
  - (a) Be constructed in accordance with approved plans by the Director and the DNR;
  - (b) Be inspected during construction by a licensed Professional Engineer or an inspector under the Professional Engineer's direct supervision or other reasonably qualified individual who the Director has approved;
  - (c) Have sewer and manhole infiltration and inflow tests performed as may be required by the DNR and/or reasonably required by the Director in accordance with standard specifications; and
  - (d) Meet the infiltration and inflow standards prescribed in Section 12.04, below.

All sewer connections shall be inspected at the time of construction to ensure compliance with generally accepted industry standards.

(2) The Director may, at any time, investigate existing or newly-constructed Public Sewers to determine if they comply with the requirements of this Section 12.02. If the Director decides that any Public Sewer does not meet the requirements of this Section 12.02, then it shall give notice of any such deficiency to the Municipality owning the Public Sewer. Any Municipality receiving such a notice shall, at its cost, promptly take all actions necessary to correct any deficiency.

**SEC. 12.03 PLANS AND CONSTRUCTIONS**

(1) Design and Specifications. All Sanitary Sewer design plans presented to the District must be prepared and sealed by a Professional Engineer registered in Wisconsin. All design plans and specifications shall be prepared in accordance with the guidelines established by the latest edition of Standard Specifications and appropriate Wisconsin Administrative Codes. Design plans submitted to the District shall be of a size not to exceed 36" long by 24" wide. All elevations given on design plans submitted to the District shall be based upon datum of Outagamie County in referenced to the Sewerage System Facility and Treatment Facility datum.

(2) Manhole Construction Connections. Manholes shall be constructed to prevent intrusion of infiltration and inflow. Manholes located in ditches, gutters or in possible flood plains shall be flood-proofed per Wisconsin Administrative Code requirements. All other manholes shall be provided with self-sealing type covers with concealed pickholes. There shall be no inside drop connection in any manhole except with written authorization from the Director or except as authorized by the Wisconsin Administrative Code. The District shall own all manholes constructed over an existing District Interceptor.

(3) Construction, Supervision, Inspection. Every Municipality shall require that the construction of Sanitary Sewers be under the direct supervision of a licensed Professional Engineer. The licensed Professional Engineer shall be responsible for reasonable inspection on such construction and shall keep accurate records of the location, depth, and length of the Sanitary Sewers as built and of the location of the wye branches and tees. At the completion of construction, the said Professional Engineer shall be responsible for the performance of deflection and leakage tests of the new lines and leakage tests of the

manholes, and shall provide the test results to the Director. The Director may at any time, inspect the construction, replacement or alteration of any Sanitary Sewer by a Municipality. No inspection or lack of inspection by the Director shall:

- (a) Relieve the Municipality or the Professional Engineer and/or contractor of their responsibility for compliance with plans, specifications, codes and/or this Ordinance; or
- (b) Affect the District's right to deny connection authorization or require reconstruction whenever non adherence to the approved plans is discovered.

**SEC. 12.04 INFILTRATION/INFLOW.** Each Municipality shall maintain its Municipal Facilities in a manner that meets the following requirements:

- (1) The rate of infiltration/inflow for new construction and existing Municipal facilities shall not be greater than a 200-gallon per inch-diameter-mile of sewer pipe per day, unless otherwise authorized by the Commission;
- (2) The rate of infiltration/inflow between any two adjacent manholes shall not be greater than 250% of the maximum rate of infiltration set forth in paragraph (1) above for that facility and
- (3) All visible leaks, if any, shall be repaired; and
- (4) No inflow connections shall exist.

**SEC. 12.05 STORM AND OTHER UNPOLLUTED WATERS.** Combined Sewers or Storm Sewers shall not be connected to the Sewerage System without the District's prior approval. Connection of existing or proposed Storm Sewers, catch basins or curb inlets to the District Sewerage System is prohibited.

**SEC. 12.06 RECORDS OF SEWER PLANS.** Each Municipality shall provide to the Director by January 31 of each calendar year an up to date general sewer plan of its sewerage system. In addition to the sewer plans submitted under Section 12.01, above, each Municipality will submit to the Director including, but not limited to, plans showing distances between manholes, pipe sizes, and pipe grades.

**SEC. 12.07 INFORMATION AND REPORTS.** Each Municipality shall provide to the Director by January 31 of each year a report showing the number of individual connections made to the Municipal Facility during the preceding calendar year, the size of each such connection, the nature of the User, and the actual or anticipated volume of Wastewater discharged through the connection. The report shall be in such form as required by the Director.

### **ARTICLE XIII – INFILTRATION/INFLOW REDUCTION PROGRAM**

**SEC. 13.01 INFILTRATION/INFLOW.**

(1) **Public Policy Considerations.** The entry of unpolluted waters, of storm sewer waters and other ground waters into the HOVMSD Facility and into Municipal Facilities is not in the public interest in that it reduces the capacities of these facilities to transmit and treat Wastewaters. Indeed, recent engineering studies indicate that in peak flow conditions, the HOVMSD Facility experiences surcharging. Moreover, the Wisconsin Department of Natural Resources requests that HOVMSD take reasonable steps to reduce the hydraulic loadings of the HOVMSD Facility. It is recognized that given current methods of construction and materials, it is not possible to completely eliminate from Sanitary Sewers the infiltration and inflow of ground water, surface water and other unpolluted waters (herein "I&I"). Nevertheless, it is the stated goal of HOVMSD to reduce the amount of I&I going into the Sanitary Sewers to reasonable levels, in order to prolong the useful life and maximize the capacities of the HOVMSD Facility and the Municipal Facilities. Accordingly, the intent of this Article XIII is to:

- (a) Provide an economic disincentive for discharging unreasonable amounts of I&I into the Sanitary Sewers;
- (b) Encourage Municipalities to develop and implement programs to reduce unreasonable amounts of I&I from their respective Sanitary Sewers; and

- (c) Reward those Municipalities who are successful in reducing unreasonable amounts of I&I from entering into their Sanitary Sewers.

(2) I&I Incentive Reduction Program. The HOVMSD Commission may from time to time adopt by resolution a program (the "Program") designed to cause the reduction of unreasonable amounts of I&I into the Sanitary Sewers located within HOVMSD. In developing such a program, the following matters shall be addressed:

- (a) Any Municipality discharging amounts of I&I into its Sanitary Sewers in excess of those permitted or authorized under the Program shall pay an "I&I Surcharge" to HOVMSD.
- (b) The amount of the I&I Surcharge shall increase in proportion to the amount of unreasonable I&I being discharged into the Sanitary Sewers.
- (c) The I&I Surcharge shall be determined as a percentage of the sewer service charges for the Municipality in question, and is in addition to all other sewer service charges to such Municipality for Wastewater discharges into the HOVMSD Facility.

The specific Program shall be adopted by the HOVMSD Commission by separate resolution, and may be amended or modified at any time thereafter by subsequent resolution.

(3) Effective Date. The I&I Incentive Reduction Program contemplated under Sec. 13.01(2), above, was adopted by the HOVMSD Commission and became effective on January 1, 2002 in accordance with its terms.

(4) Amendment. The HOVMSD Commission reserves the right to amend, modify and repeal this Article XII at anytime hereafter; and nothing contained herein shall be construed as conferring upon any Municipality or other person, any contract rights.

#### **ARTICLE XIV - ADMINISTRATION OF SEWERAGE SYSTEM AND INDUSTRIAL DISCHARGE**

SEC. 14.01 WASTEWATER DISCHARGE PERMITS. All persons making industrial waste discharges into the public sewerage system shall first obtain a Wastewater Discharge Permit.

SEC. 14.02 APPLICATION INFORMATION. Unless already holding a permit, persons making industrial waste discharges into the public sewerage system shall submit a permit application for a Wastewater Discharge Permit within ninety (90) days after the effective date of this Ordinance. New Sources required to obtain a Wastewater Discharge Permit shall submit a permit application at least ninety (90) days prior to connecting to or contributing Wastewater to the HOVMSD Facility. Existing Users who become Permit Users shall be required to submit a permit application in the event there is any change to their Wastewater volume and/or characteristics (the "Proposed Wastewater"). Said application will be submitted at least ninety (90) days before the Proposed Wastewater is discharged to the Sewerage System. The application shall contain such information as the Director may reasonably require (and the Director may develop from time to time forms for such purpose),, and accompanied by a permit fee as established annually by the Commission. Measurement of Pollutants contained within the application shall comply with 40 CFR 403.12 (b) 5.

New Sources or persons making industrial waste discharges into the public sewerage system which do not hold a Wastewater Discharge Permit ( "Permit Applicant" ) shall submit estimates in the permit application for those required items where actual data is not yet available. An Authorized Officer of such person shall sign the permit application. An appropriate qualified professional shall certify data in the permit application. In support of the permit application, each Permit Applicant shall include the following in a manner appropriate for evaluation:

- (1) Names of owners or operators, address, and location of company, (if different from the address);
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of Management and Budget, as amended;

(3) Wastewater characteristics as referenced in Article IV of this Ordinance and Pollutants, all of which are determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304 (h) of the Act and contained in 40 CFR, Part 136, as amended;

(4) Times and duration of Wastewater contribution;

(5) Average daily and thirty (30) minute peak Wastewater flow rates including daily, monthly, and season variations, if any. These measurements shall be made from both the regulated process streams, and any other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6 (e);

(6) Site plans showing all Sewers, Sewer connections, and appurtenances by size and location;

(7) General description of Permit Applicant's activities and processes including, but not limited to, a description of all materials which are or could be discharged in its Wastewater. The description should include a schematic process diagram, which indicates points of discharge to the HOVMSD Facility from regulated processes;

(8) The nature and concentration of any Pollutants in the discharge which are limited by any District, State, or Categorical Pretreatment Standards, and a statement regarding whether or not the Categorical 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 Categorical Pretreatment Standards;

(9) What pretreatment and/or manner of operation and maintenance the Permit Applicant believes will be required to meet the Categorical Pretreatment Standards. If pretreatment and/or a special manner of operation and maintenance is to be performed by the Permit Applicant, the Permit Applicant shall submit the shortest schedule by which the Permit Applicant will provide the pretreatment and or manner of operation and/or maintenance. The following conditions shall apply to this schedule:

(a) The completion date in this schedule shall not be later than the compliance date established for the applicable Categorical Pretreatment Standard;

(b) 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 Permit Applicant to meet the applicable Categorical Pretreatment Standards or Pretreatment Requirements ( e.g. , hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

(c) Not later than fourteen (14) days to following each date in the schedule and the final date for compliance, the Permit Applicant shall submit a progress report to the Director, which shall include, as a minimum, an indication of:

1. Whether or not the Industrial User Permit Applicant complied with the increment of progress to be made on such date, and if not, the date on which the Industrial User Permit Applicant expects to comply with this increment of progress;

2. The reason for delay; and

3. The steps being taken by the Industrial User Permit Applicant to return the construction to the schedule established.

In no event shall more than nine (9) months elapse between such progress reports to the Director.

(10) Number of employees and hours of operation of plant and proposed or actual hours of operation of pretreatment system;

(11) List of any environmental control permits held by the Industrial User Permit Applicant; and

(12) Any other information as may be deemed by the HOVMSD to be necessary to evaluate the permit application.

The HOVMSD will evaluate the data furnished by the Permit Applicant and may require additional information. After evaluation and acceptance of the data furnished, the HOVMSD may issue a Wastewater Discharge Permit subject to terms and conditions provided herein.

**SEC. 14.03 PERMIT MODIFICATIONS.** Within two hundred seventy (270) days of the effective date of the enactment of the Categorical Pretreatment Standards, or Pretreatment Requirements or any modification of the Categorical Pretreatment Standards or Pretreatment Requirements, the Wastewater Discharge Permit of the Permit Users subject to such standards shall be automatically revised to require compliance with such standards within the time frame prescribed by such standards.

In addition, the Permit User with an existing Wastewater Discharge Permit shall submit to the Director within one hundred eighty (180) days after the promulgation of an applicable Categorical Pretreatment Standard or Pretreatment Requirement the information required by Section 14.02(8) & (9), above. Where a User, subject to Categorical Pretreatment Standards or Pretreatment Requirements, has not previously submitted an application for a Wastewater Discharge Permit as required by Section 14.02, above, the User shall submit a Wastewater Discharge Permit application within one hundred eighty (180) days after the effective date of the applicable Categorical Pretreatment Standards or Pretreatment Requirements.

A decision as to whether or not to grant a Wastewater Discharge Permit shall be given to the Users within ninety (90) days after receipt of the Wastewater Discharge Permit application. The terms and conditions of the permit may be subject to modification by the HOVMSD during the term of the permit as limitations or requirements identified in Article III of this Ordinance are modified or as other just causes exist. A Permit User shall be informed of any proposed changes in its permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

**SEC. 14.04 PERMIT CONDITIONS.** Wastewater Discharge Permit shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, as well as, User Charges and fees established by the District. Permits may also contain the following:

- (1) The schedule of charges and fees as listed in Article VI of this Ordinance for the Wastewater to be discharged to the District Facility;
- (2) Limits on the average and maximum Wastewater constituents and characteristics;
- (3) Limits on average and maximum rates and times of discharge or requirements for flow regulations and equalizations;
- (4) Requirement for installation and maintenance of inspection and sampling facilities;
- (5) Requirements for installation and maintenance of pretreatment facilities;
- (6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types, and standards for tests and reporting schedule;
- (7) Compliance schedule;
- (8) Requirements for submission of technical reports or discharge reports (see Section 14.11, below);
- (9) Requirements for notification to the District of any new introduction of Wastewater constituents or any substantial change in the volume or character of the Wastewater constituents being introduced into the Sewerage System;
- (10) Requirements for maintaining and retaining plant records relating to Wastewater discharge as specified by the District, and affording District access thereto;
- (11) Requirements for notification of Slug discharges as in accordance with Section 14.13, below; and

(12) Other conditions as deemed appropriate by the District to ensure compliance with this Ordinance.

**SEC. 14.05 EXPRESSION OF PRETREATMENT STANDARDS.** Pretreatment Standards will be expressed as a concentration of mass limits. Limits in Categorical Pretreatment Standards shall apply to the effluent of the process regulated by the Categorical Pretreatment Standard, or as otherwise specified by the Categorical Pretreatment Standard.

(1) When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutant per unit of production, the District may convert the limits to equivalent limitations expressed either as mass of Pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Users.

(2) If applied, the District shall calculate mass-per-day limitations by multiplying the limits in the Categorical Pretreatment Standard by the Permit User's average rate of production. This average rate of production shall be based not upon the designated production capacity but rather upon a reasonable measure of the Permit User's actual long-term daily production, such as the average daily production during a representative year. For New Sources, actual production shall be estimated using projected production.

(3) The District shall calculate equivalent concentration limitations under Subsection (1) of this section by dividing the mass limitations derived under Subsection (2) of this section by the average daily flow rate of the Permit User's regulated process Wastewater. This average daily flow rate shall be based upon a reasonable measure of the Permit User's actual long-term average flow rate, such as the average daily flow rate during the representative year.

(4) Equivalent limitations calculated in accordance with Subsections (2) and (3) of this section shall be deemed Categorical Pretreatment Standards for the purposes of Section 307(d) of the Act and this Ordinance. Permit User's will be required to comply with the equivalent limitations in lieu of the promulgated Categorical Pretreatment Standards from which the equivalent limitations were derived.

(5) Where Categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average or four (4) day average limitations, the same production of flow figure shall be used in calculating both types of equivalent limitations.

(6) Any Permit User operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the District within two (2) business days after the Permit User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any Permit User not notifying the District of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

**SEC. 14.06 BYPASS PROVISIONS.**

(1) A Permit User may allow a Bypass to occur which does not cause Categorical Pretreatment Standards or Pretreatment Requirements to be violated, but only if it is for essential maintenance to assure efficient operation. These Bypasses are not subject to the provision of Subsection (2) and (3), below, of this section. If a Permit User knows in advance of the need for a Bypass, it shall submit prior notice to the Director. If possible at least ten (10) days before the date of the Bypass.

(2) A Permit User shall submit oral notice of an unanticipated Bypass that exceeds applicable Categorical Pretreatment Standards or Pretreatment Requirements to the Director within twenty-four (24) hours from the time the Permit User becomes aware of the Bypass. A written submission shall also be provided within five (5) days of the time the Permit User becomes aware of the Bypass. The written submission shall contain:

- (a) A description of the Bypass and its cause;
- (b) The duration of the Bypass, including exact dates and times;
- (c) If the Bypass has not been corrected, the anticipated time it is expected to continue; and
- (d) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass.

The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- (3) (a) Except as provided by Subsection (1), above, any Bypass is prohibited, and the Director may take enforcement action against a Permit User for a Bypass, unless;
1. The Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  2. There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  3. The Permit User submitted notices as required under Subsection (3) of this section.
- (b) The Director may approve a Bypass, after considering its adverse effect, if the Director determines that the Bypass meets the three conditions listed in Subsection (3a) of this section.

**SEC. 14.07 HAZARDOUS WASTE NOTIFICATION.** All Users shall notify the District, the EPA Regional Waste Management Division Director, and State Hazardous Waste Authorities in writing of any discharge into the public sewerage system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification must include the name of the hazardous waste set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other ).

If a User discharges more than one hundred (100) kilograms or two hundred twenty two (222) pounds of such waste per calendar month to the public sewerage system, the notification shall also contain the following information 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 wastestream discharged during the calendar month; and
- (3) An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months.

All notifications must take place within 24 hours following the discharge.

All Users who commence discharging after the effective date of this Ordinance shall provide the notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12 (j). The notification requirement in this section does not apply to Pollutants already reported under the self-monitoring requirements of 40 CFR 403.12 (b), (d), and (e).

Users are exempt from the requirements of Section 14.05 of this Article during a calendar month in which a User discharges no more than fifteen (15) kilograms of hazardous waste, unless the waste is an acute hazardous waste as specified in 40 CFR 261.30 (d) and 261.33 (e). Users of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one-time notification.

Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the District, the EPA Regional Waste Management Waste Division, and state Hazardous Waste Authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

In the case of any notification made under Section 14.07 of this Article, the User shall certify that it 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.

SEC. 14.08 PERMIT DURATION. Permits may be issued for a period not to exceed four (4) years. The Permit User shall apply for permit re-issuance a minimum of ninety (90) days prior to the expiration of the Permit User's existing permit. During any term of a permit, the permit may be modified at any time by the Director and reissued based on the conditions specified in Section 14.03, above. Permit Users subject to modification of an existing permit during its term would be so notified by the Director.

SEC. 14.09 PERMIT TRANSFER. Wastewater Discharge Permits are issued to a specific Permit User for a specific operation. 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 the District. Any succeeding owner or User shall also comply with the terms and conditions of the existing permit pending approval of issuance of a new permit or transfer of the previous owner's or User's permit.

SEC. 14.10 APPEALS PROCEDURE. A Permit User desiring to appeal to the HOVMSD Commission regarding the Wastewater Discharge Permit issued by the Director shall file a petition for appeal as per the procedures of Section 15.13 of this Ordinance not more than twenty (20) days after the Permit User receives the Wastewater Discharge Permit or modification thereof. If the Permit User does not file a petition for appeal within said time, the decision of the Director with respect to the term and conditions of the Wastewater Discharge Permit is final.

SEC. 14.11 COMPLIANCE REPORTING REQUIREMENTS FOR PERMITTEE. Within One Hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or one hundred eighty (180) days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a) (4), whichever is later, existing Permit Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the public sewerage system shall be required to submit to the District a report which contains the information listed in Subsection (b), 1-7 of 40 CFR 403.12.

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or Pretreatment Requirements (in the case of a New Source following commencement of the introduction of Wastewater into the public sewerage system) any Permit User subject to Categorical Pretreatment Standards and Requirements shall submit to the Director a flow and Pollutant measurement as described in 40 CFR 403.12(b), 4-6.

For Permit Users subject to equivalent mass or concentration limits established by the Director in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the Permit User's long term production rate.

For all other Permit Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant discharge per unit of production (or other measure of operation), this report shall include the Permit User's actual production during the appropriate sampling period.

The report shall state whether the applicable Categorical Pretreatment Standards and/or Pretreatment Requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or Pretreatment is necessary to bring the Permit User into compliance with the applicable Categorical Pretreatment Standards and Pretreatment Requirements. This statement shall be signed by an Authorized Representative of the Permit User and certified to by a registered professional qualified to certify the report.

SEC. 14.12 PERIODIC COMPLIANCE REPORTS.

(1) Any Permit User subject to Categorical Pretreatment Standards or Pretreatment Requirements, after the compliance date of such Categorical Pretreatment Standards or Pretreatment Requirements, or, in the case of a New Source, after commencement of discharge into the HOVMSD Facility, shall submit to the Director during the months of July and January unless required more frequently in the Categorical Pretreatment Standards or the Director, a report indicating the nature and concentration of Pollutants in the effluent which are limited by such Categorical Pretreatment Standards or Pretreatment Requirements.

In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow. At the discretion of the Director and in consideration of such factors as local high or

low flow rates, holidays, budget cycles, etc., the Director may agree to alter the months during which the above reports are to be submitted. These statements shall be signed by an Authorized Representative of the Permit User, and certified by a qualified professional.

(2) The Director may impose mass limitations on Permit Users which are using dilution to meet applicable Categorical Pretreatment Standards or Pretreatment Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by Subsection (1) of this section shall indicate the mass of Pollutants regulated by Categorical Pretreatment Standards or Pretreatment Requirements in the effluent of the Permit 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 the Director of Pollutants contained therein which are limited by the applicable Categorical Pretreatment Standards or Pretreatment Requirements. The frequency of monitoring shall be prescribed in Chapter NR 211 of the Wisconsin Administrative Code. All analyses shall be performed in accordance with procedures established in Standard Methods, and/or established by the EPA Administrator pursuant to Section 304 (h) of the Act and contained in 40 CFR, Part 136 and amendments thereto or with any other test procedures approved by the Director. Sampling shall be performed in accordance with the techniques approved by the Director.

(3) Non-Significant Industrial Users shall submit to the Director during the months of July and January of each year, a description of the nature, concentration, and flow of the Pollutants required to be reported to the Director. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto where 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the Director determines that the Part 136 sampling and analytical techniques are in appropriate for the Pollutant in question, analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other persons, approved by the Director.

This sampling and analysis may be performed by the Director in lieu of being performed by Non-Significant Industrial User at the cost of the Non-Significant Industrial User. Where the District itself collects all the information required for the report, the Non-Significant Industrial User will not be required to submit the report.

(4) For Permit Users subject to equivalent mass or concentration limits established by the Director in accordance with the procedures set forth in 40 CFR Part 403.6 (c), the report shall contain a reasonable measure of the Permit User's long term production rate. For all other Permit Users subject to Categorical Pretreatment Standards expressed only in terms of allowable Pollutant discharge per unit of production (or other measure of operation), the report shall include the Permit User's actual average production rate for the reporting period.

(5) If the Permit User subject to reporting requirements in this section monitors any Pollutant using approved methods, more frequently than required by the Director, the results of this monitoring shall be included in the report.

(6) The Director shall require frequency of monitoring that is necessary to assess and assure compliance by the Permit User with applicable Categorical Pretreatment Standards and Pretreatment Requirements.

(7) Compliance reports including baseline-monitoring reports shall include the following certification statement:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing of the violations.

An Authorized Representative of the Permit User shall sign the certification statement.

If sampling performed by a Permit User indicates a violation, the Permit User shall notify the Director within twenty four (24) hours of becoming aware of the violation. The Permit User shall also repeat the sampling and analysis and submit the results thereof to the Director within thirty (30) days after becoming aware of the violation.

**SEC. 14.13 OPERATING UPSETS OR SLUG OR ACCIDENTAL DISCHARGES.** Any User which experiences an Upset or Slug or experiences an Accidental Discharge in operations which places the User in a temporary state of noncompliance with this Ordinance or a Wastewater Discharge Permit issued pursuant hereto shall inform the Director and the appropriate Municipality immediately of first awareness of the commencement of the Upset, Slug, or Accidental Discharge. The notification shall include location of discharge, time of occurrence, type of waste, concentration and volume, and corrective action. The District may choose to immediately take action pursuant to Article XV of this Ordinance.

Within five (5) days following an Upset, Slug, or Accidental Discharge, the User shall submit to the Director a detailed written report. The report shall specify:

- (1) Description and cause of the Upset, Slug, or Accidental Discharge and the impact on the User's compliance status. The description should also include location of discharge, and type, concentration, and volume of waste;
- (2) Duration of noncompliance including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur;
- (3) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an Upset, Slug, Accidental Discharge, or other condition of noncompliance.

Submitting the report shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the District's sewerage system, fish kills, or any other damage to Persons or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law. After receipt and review of the written report, the District may choose to take no further action or to take action in accordance with Article XV of this Ordinance.

The User shall repeat the sampling and analysis and submit the results thereof to the District Approving Authority within thirty (30) days after becoming aware of the Upset, Slug, or Accidental Discharge. The User does not need to resample if:

- (a) The District performs sampling of the User's Wastewater at least once per month, or
- (b) The District performs sampling of the User's Wastewater between the time when the User performs its initial sampling and the time when the User receives the results of this sampling.

**SEC. 14.14 CONFIDENTIAL INFORMATION.** Information and data on a Permit User obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public and governmental agencies without restriction unless the Permit User specifically requests and is able to demonstrate to the satisfaction of the District that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the Permit User.

When requested by the Person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Ordinance, a Wisconsin Pollutant Discharge Elimination System (WPDES) Permit, State Disposal System permit, and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

Notwithstanding anything in Section 14.14 of this Ordinance, the District shall have the right to release any information contained in a report from a Permit User as may be required by the Open Records Laws.

Information accepted by the District as confidential shall not be transmitted by any governmental agency or to the general public by the District until and unless a ten (10) day notification is given the Permit User.

## **ARTICLE XV - VIOLATIONS, ENFORCEMENT AND ABATEMENT**

### **SEC. 15.01 VIOLATIONS CONSTITUTE PUBLIC NUISANCES.**

(1) Any violation by any person of the provisions of this Ordinance or any other rule, regulation or special order promulgated by the Commission or District shall constitute a public nuisance, pursuant to the authority and provisions of Section 200.11(1)(d), Wisconsin Statutes. As such a public nuisance, the same shall be enjoined and this ordinance, rule, regulation or special order shall be enforced, all as provided for in Section 823.02, Wisconsin Statutes, as amended from time to time.

(2) Any person found in violation of this ordinance or any other rule, regulation or special order, shall pay to the District such damages, losses or expenses as may be sustained by the District as a result of the violation, together with such costs as may be collectible by law.

(3) The Commission may proceed to enforce this Ordinance or any other rule or regulation promulgated by it, by the commencement of an action for enforcement under Section 823.02, Wisconsin Statutes, or by the issuance of a special order under Section 15.03 hereof. Any remedy or right of the District as provided for in this Ordinance with respect to violations hereof or of any other rule, regulation, or special order, are deemed to be cumulative, and in addition to those provided for by any other law.

**SEC. 15.02 NOTICE OF VIOLATION.** Any person found by the Commission or the Director to be in violation of any provision of this Ordinance or any rule or regulation promulgated by the Commission, shall be given written notice stating the nature of the violation. In the event, the Commission determines to issue a special order under Section 15.03 hereof for the remedy of such violation, the Special Order shall contain the notice of violation.

### **SEC. 15.03 SPECIAL ORDERS, APPEALS THEREFROM AND PENALTIES.**

(1) In the event of any violation of the provisions of this Ordinance, or any other rule or regulation promulgated by the Commission or District, the Commission may issue a special order pursuant to Secs. 200.11(1)(d) and 200.45, Wisconsin Statutes, directing the person causing the violation to comply with such ordinance, rule or regulation within a specified time. All special orders shall be in writing and shall specifically state what action is required to comply with the order. Service and proof of service of any special order shall be made in the manner provided for service of summons and proof thereof.

(2) Any person aggrieved by a special order of the Commission which directly affects the legal rights, duties or privileges of the person may secure a review of such order by the Commission. Such review shall be in accordance with the requirements of Sec. 200.45(2)(b), Wisconsin Statutes, as amended from time to time.

(3) If any person fails to comply with a Special Order of the Commission within the time specified, or in case of a proceeding for review of the Special Order, within 20 days after the determination becomes final, or to in good faith begin to obey, the person is declared to be creating a public nuisance enjoined under Sec. 823.02, Wisconsin Statutes, and shall forfeit to the District the sum of \$10,000 for each day the failure continues.

**SEC. 15.04 ADMINISTRATIVE ENFORCEMENT.** The Director may invoke the following administrative enforcement remedies in the circumstances described in this subsection. By virtue of any Industrial User holding a Wastewater Discharge Permit or any Certified Wastewater Hauler holding a Wastewater Hauler Discharge permit issued pursuant to this Ordinance, the holder thereof shall be deemed to have irrevocably agreed to the following administrative remedies, procedures and fines for violations of this Ordinance or the permit so issued.

(1) **Notice of Violation (NOV).** Whenever the Director finds that any Industrial User or Wastewater Hauler has violated or is violating any State or Federal requirement or this Ordinance, its Wastewater Discharge Permit, or is otherwise in noncompliance thereunder, the Director or his agent may send, deliver or serve upon said User a written Notice of Violation ("NOV"). Within 15 days of the receipt of the notice, the User

shall provide a written explanation of the violation or non-compliance and offer a plan for the satisfactory correction and prevention thereof which plan shall include specific required actions. The explanation and plan shall be submitted to the Director or his agent. Submission of this explanation and plan in no way relieves the User of liability for any violations or non-compliance occurring before or after receipt of the NOV.

(2) Consent Agreement. The Director is hereby empowered to enter into Consent Agreements on behalf of the District with Users, to assure voluntary compliance, with the terms of this Ordinance and the Wastewater Discharge Permit issued to such User. Such agreement may include compliance schedules, administrative fines, stipulated fines and/or remedial actions.

(3) Emergency Situations.

- (a) The Director may temporarily suspend the Wastewater Discharge Permit and/or deny sewerage service to an Industrial User whenever such suspension is necessary in order to stop an actual or threatened discharge, presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the public sewerage system, or the environment.
- (b) Any User notified of a temporary suspension of its Wastewater Discharge Permit or service shall immediately stop or eliminate its contribution to the public sewerage system. In the event a User fails to immediately comply with the foregoing action, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the public sewerage system, its receiving stream or endangerment to any individuals. The Director shall allow the User to recommence its discharge when the endangerment has passed.
- (c) An Industrial User which is responsible, in whole or in part, for imminent endangerment and submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrences to the Director.

(4) Administrative Fines. Notwithstanding any other section of this Ordinance, any User who is found to have violated any provision of this Ordinance, or its Wastewater Discharge Permit or administrative action taken or issued hereunder, may be fined by the Director in the exercise of his reasonable discretion, in the following amounts, but not to exceed a maximum of \$1,000 per day for all violations, in the aggregate. Each day on which a violation occurs or continues to occur, shall be deemed a separate and distinct violation. Unpaid charges, fines and penalties shall constitute a lien against the User's property. Such fines are in addition to all other fines or forfeitures that may be imposed pursuant to other Sections of this Ordinance. The Director may impose the following administrative fines not to exceed the amounts indicated:

- (a) Failure to give notification to the District as required by a Wastewater Discharge Permit or this Ordinance - \$100/day
- (b) Lack of necessary details on plans and specifications for new discharges - \$100/day
- (c) Accidental discharges, or slug discharges, if reported within 2 hours - \$500/discharge
- (d) Accidental discharges, or slug discharges, if not reported within 2 hours - \$1000/discharge
- (e) Reporting violations, failure to respond to a Notice of Violation, and failure to file a report or response required by the District, including incomplete or unsigned\_reports:

<u>Report or Response received after Due Date</u>	<u>FINE</u>
1 – 14 DAYS LATE	\$100.00
15 - 30 DAYS LATE	\$300.00
31 – 60 DAYS LATE	\$500.00
More than 60 days LATE	\$500.00 + \$100/day

- (f) Failure to report batch discharges - \$100/day
- (g) Any prohibitive discharge
  1. That does not cause violation of the District's WPDES Permit - \$500/dischARGE/day
  2. That causes a violation of the District's WPDES Permit - \$1000/dischARGE/dya.
- (h) Discharge limit violations of nonconventional pollutants in Article IV - \$100/pollutant/day. In addition, permittees with average daily mass limits will be assessed a surcharge on the pounds of individual pollutants over and above the average daily mass limits/day.
 

1/Conc. Limit x \$500 per pound per day
- (i) pH violations – '\$500 x pH s.u. above/below limit x duration in hundredths of an hour. For example, a discharge of pH 3.5 pH wastewater for 30 minutes would result in the following fine:
 

$\$500 \times 1.5 \times .50 = \$375$

For pH spikes as defined in Article IV the max/minimum pH will be used plus the total time of all exceedences.
- (j) Denial of access or interference with pretreatment inspector in the performance of his duties - \$500. If a search warrant is required - \$500 plus costs.

The above administrative fines may be adjusted annually by resolution duly adopted by the Commission, but shall never be less than the dollar amounts set forth above.

(5) Nature of Actions. Nothing contained in subsections (a) through (d) hereof, or elsewhere in this Section, shall be deemed to provide exclusive remedies for violations of this Ordinance or any Wastewater Discharge Permit issued hereunder, and all remedies contained in this Ordinance or as provided for by law are distinct, separate and cumulative. Further, all such remedies may be pursued individually, collectively or concurrently.

**SEC. 15.05 [INTENTIONALLY LEFT BLANK]**

**SEC. 15.06 REVOCATION OF PERMIT.** In lieu of any administrative enforcement under Section 15.04 hereof or in addition thereto, any User who violates the conditions of its Wastewater Discharge Permit issued hereunder, may have its Permit summarily revoked by the Commission of the District as provided for in Section 200.45(3), Wisconsin Statutes. A holder of any such Permit does not acquire any vested right or privilege by being issued such a Permit. Industrial Users shall be notified of the termination of their Wastewater Discharge Permit.

**SEC. 15.07 SPECIAL ORDERS BY THE DIRECTOR AND OTHER AUTHORITIES.** As an alternative to or in addition to any enforcement provisions contained in this Ordinance, the Commission of the District may issue Special Orders in the name of the District, directing compliance with this Ordinance and/or any Wastewater Discharge Permit or Wastewater Hauler Discharge Permit issued hereunder, within a specified time. Such Special Orders shall be so issued pursuant to Secs. 200.11(1)(d) and 200.45(2), Wisconsin Statutes; and all of the provisions of said statutes (including but not limited to enforcement thereof, review thereof and forfeitures) are hereby incorporated by reference. For purposes of the foregoing statute, the Commission of the District does hereby designate the Director, or his designee, to issue Special Orders in the name of the District in an emergency to prevent damage to the District's sewerage system from misuse, injury to employees, interference with the process of sewerage treatment or disposal or substantial risk to the public health and welfare. In addition to all other remedies provided for therein, the Commission of the District may initiate an action for the remedies provided for in Section 283.91(2) through (5), Wisconsin Statutes, including a forfeiture of not more than \$10,000 for each day of violation of any Special Order so issued hereunder, which sum shall be in addition to all Administrative Fines that may be levied pursuant to Sec. 15.04 (4) hereof.

SEC. 15.08 JUDICIAL REMEDIES. If any person discharges sewage, industrial wastes, hazardous wastes, or other wastes into the District's sewerage system contrary to the provisions of this Ordinance or any Wastewater Discharge Permit or any other permit or order issued hereunder, the Commission, on behalf of the District, may commence an action for appropriate legal and/or equitable relief in the Circuit Court of Outagamie County, Wisconsin, or in any other court of competent jurisdiction, which action may include the following requested relief:

(1) Injunctive Relief. Whenever an Industrial User has violated or continues to violate the provisions of this Ordinance, its Wastewater Discharge Permit, or order issued hereunder, such violation creates a public nuisance under Section 823.02, Wisconsin Statutes, and the District may obtain an injunction restraining or compelling activities of the Industrial User.

(2) Civil Penalties.

(a) Any person using the District's sewerage system without a Wastewater Discharge Permit for a use for which such a permit may be issued hereunder, or continuing to use the District's sewerage system after notice of termination or revocation of such permit, shall forfeit to the District the sum of \$500.00 for each violation, in addition to all other penalties provided for herein. Each day or any part thereof during which such violation continues, shall be considered as a separate violation for purposes hereof.

(b) Any Industrial User who has violated or continues to violate this Ordinance or its Wastewater Discharge Permit issued hereunder, shall forfeit not less than \$1000 nor more than \$10,000 for each day of violation, which sum shall include all administrative fines that may be levied pursuant to Section 15.04 (4) hereof. In addition, there shall be assessed as an additional penalty all of the total costs incurred by the District relative to the investigation, including monitoring, which led to the establishment of the violation.

(c) Any Industrial User who violates or continues to violate this Ordinance or its Wastewater Discharge Permit issued hereunder shall reimburse the District for all damages sustained by the District as a result of such violation, including, but not limited to, damages to District facilities, in addition to all other penalties imposed hereunder. Further, the District shall be entitled to receive for any Industrial User who violates this Ordinance or its Wastewater Discharge Permit issued hereunder, the District's reasonable attorney's fees, court costs, and any other applicable expenses associated with its enforcement activities.

SEC. 15.09 CRIMINAL PROSECUTION.

(1) Violations – General. Any Industrial User who willfully or negligently violates any provision of this Ordinance, of a Wastewater Discharge Permit, or any order issued hereunder shall, upon conviction, be guilty of a crime, punishable by a fine of not less than \$1000 or imprisonment or both.

(2) Falsifying Information. Any Industrial User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this Ordinance, a Wastewater Discharge Permit or order issued hereunder, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, upon conviction, shall be punished by a fine of not less than \$1000 or imprisonment, or both.

(3) Miscellaneous. For purposes of the foregoing Sections 15.10(a) and (b), the provisions of Section 283.91, Wisconsin Statutes, shall control.

SEC. 15.10 PROTECTING INFORMANTS.

(1) If the District receives a request under Ch. 19, Wisconsin Statutes, for records that indicate, either explicitly or implicitly, the identity of an informant, then the Custodian of Records may deny access to the records upon finding that:

(a) The District made a pledge of confidentiality to the informant;

- (b) The pledge of confidentiality was made to obtain information from the informant for the District's law enforcement activities;
- (c) The pledge of confidentiality was necessary to obtain the information from the informant; and
- (d) Disclosure of the informant's identity would harm the District's present or future law enforcement activities more than disclosure would benefit the public.

(2) If the Custodian of Records denies access to the records, then the Custodian of Records shall provide to the requestor specific reasons for denial.

**SEC. 15.11 HAZARDOUS WASTE NOTIFICATION.** The discharge of listed or characteristic hazardous waste is specifically prohibited by Article IV hereof. If a User violates this Ordinance and discharges such hazardous waste in violation thereof, this section applies, in addition to all other remedies provided for herein.

(1) Any User, except as specified in Subpart (d) below, which discharges to the public sewerage system any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR 261, shall notify the District, the EPA Regional Waste Management Director, and the DNR, in writing, of such discharge.

(2) All hazardous waste notifications shall include:

- (a) The name of the hazardous waste as set forth in 40 CFR 261.
- (b) The EPA hazardous waste number.
- (c) The type of discharge (batch, continuous, or other).
- (d) 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.

(3) Hazardous waste notifications shall be submitted no later than the effective date of this Ordinance, except that User's commencing the discharge of hazardous wastes after the effective date of this Ordinance shall report any discharge of hazardous waste immediately.

(4) Users are exempt from the hazardous waste notification requirement for pollutants already reported under 40 CFR 403.12(b), (d) and (e), (Reporting Requirements for Categorical Users).

**SEC. 15.12 ANNUAL PUBLICATION OF INDUSTRIAL USER'S IN SIGNIFICANT NONCOMPLIANCE.** The Director shall publish, at least annually in the official newspaper of the District, a description of those Industrial Users which are found to be in significant noncompliance, as defined in Article II of this Ordinance, or any permit, or order issued hereunder, during the period since the previous publication.

**SEC. 15.13 APPEALS FROM DETERMINATIONS OF THE DIRECTOR.**

(1) Any person having a substantial interest which is adversely affected by an administrative determination of the Director may have such determination reviewed as provided for herein. Only administrative determinations described in Sec. 68.02, Wisconsin Statutes, are subject to review. Such person shall make written request to the Director within 15 days of the administrative action complained of. The request for review shall state the grounds upon which such person contends that the determination should be modified or reversed. Upon receipt of such request, the Director shall review the determination in accordance with the requirements of Sec. 68.09, Wisconsin Statutes, as amended from time to time.

(2) If such person desires to appeal from the final determination of the Director under subsection (a) hereof, such person shall file with the Commission a written notice of appeal therefrom. Such notice must be filed within fifteen (15) days of the Director's final determination. Upon the filing of such notice, the Commission shall provide such person with a hearing, to be held in accordance with the provisions of Secs. 68.11 and 68.12, Wisconsin Statutes, except as otherwise provided for herein.

(3) Any appeal to the Commission under subsection (b) hereof shall be accompanied by an appeal fee of \$250. Said fee may be refundable to the Appellant if the Commission decides in favor of the Appellant. In the event the Appellant desires the hearing proceedings to be taken by stenographer or by a recording device, the expense thereof shall be paid by the Appellant.

SEC. 15.14 FALSIFYING OF INFORMATION OR TAMPERING WITH FACILITIES. No person shall knowingly make any false statement, representations, record, report, plan or other document filed with the District or falsify, tamper with, or knowingly render inaccurate any metering device or method required under this ordinance. Any person who violates this provision, shall be subject to the penalties imposed under this Article.

## **ARTICLE XVI - MISCELLANEOUS**

SEC. 16.01 RECORDS RETENTION. All holders of a permit issued pursuant to this Ordinance shall retain and preserve for no less than three years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to monitoring, sampling, and chemical analyses made by or on behalf of such a holder in connection with its discharge.

All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the District pursuant hereto shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

SEC. 16.02 LIABILITY TO HOVMSD FOR LOSSES. Any User violating any of the provisions of this Ordinance or who has a discharge which causes a deposit, obstruction, damage or other impairment to the public sewage system shall become liable to the District for any expense, loss, or damage caused by the violation or discharge. Any refusal to pay the assessed costs shall constitute a violation of this Ordinance.

If any violations affect the public sewerage system as well as the Municipal Facility, the District may penalize the violator independently and concurrently with the Municipality according to this Ordinance.

SEC. 16.03 EMERGENCY RULES. Nothing contained in this Ordinance shall be construed as prohibiting the Commission or District from adopting any emergency rule in order to preserve the public health, safety or welfare. Such emergency rule shall be effective only for the period authorized by Sec. 200.45, Wisconsin Statutes, as amended from time to time.

SEC. 16.04 SUPERSEDING PREVIOUS ORDINANCES. This ordinance governing sewer use, industrial wastewater discharges, sewer service charges and sewer connections shall supersede all previous regulation of the District which are in conflict herewith.

SEC. 16.05 INVALIDATION CLAUSE. The invalidity of any section, clause, sentence, or provision in this Ordinance shall not affect the validity of any other section, clause, sentence, or provision of this Ordinance which can be given effect without such invalid part or parts.

SEC. 16.06 AMENDMENT. The Commission reserves the right to amend this ordinance in whole or in part whenever it may deem necessary.

SEC. 16.07 CONFLICT WITH DISTRICT'S ORDINANCE. In the event that any provision of this Ordinance is in conflict with the ordinance of any Municipality, the former shall control.

SEC. 16.08 EFFECTIVE DATE. This Ordinance shall take effect and be in force upon its publication in a newspaper of general circulation within the District.

SEC. 16.09 DATE OF ENACTMENT. Adopted by the Heart of the Valley Metropolitan Sewerage District Commission in the State of Wisconsin, on the 14th day of March, 2006.

## **ARTICLE XVII – SPECIAL ARRANGEMENTS**

SEC. 17.01 GENERAL. Nothing contained in this Ordinance shall be construed as prohibiting any special arrangement between the Director and any Municipality or person whereby waste of unusual strength or character may be admitted to the wastewater collection system and/or wastewater treatment facility, either before or after pre-treatment; provided, however, that there is no impairment of the functioning of the said collection system and/or treatment facility by reason of the admission of such wastes and no extra costs are incurred by the District without recompense by the Municipality or person.

SEC. 17.02 SPECIAL DISTRICT PERMIT. The Commission, or the Director if so authorized by the Commission, may issue "special use permits" as provided for in Section 200.45(3), Wis. Stats., as amended from time to time.

SIGNED SIGNATURE

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Commission President

ATTEST;

SIGNED SIGNATURE

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Commission Secretary