

**AGENDA**  
**WYOMING CITY COUNCIL MEETING**  
**CITY COUNCIL CHAMBERS**  
**MONDAY, DECEMBER 3, 2018, 7:00 P.M.**

- 1) Call to Order**
- 2) Invocation** – Pastor Bruce Osbeck, Faith Reformed Church  
*If you wish and are able, please stand for the invocation. The Pledge of Allegiance will immediately follow the invocation.*
- 3) Pledge of Allegiance**
- 4) Roll Call**
- 5) Student Recognition**
- 6) Approval of Minutes**  
From the November 19, 2018 Regular Meeting
- 7) Approval of Agenda**
- 8) Public Hearings**  
*If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting's permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*
- 9) Public Comment on Agenda Items**  
*This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*
- 10) Presentations and Proclamations**
  - a) Presentations
    1. Operators Meritorious Service Award received by Shimo Svabic from the Michigan Section of the American Water Works Association
  - b) Proclamations
- 11) Petitions and Communications**
  - a) Petitions
  - b) Communications
- 12) Reports from City Officers**
  - a) From City Council
  - b) From City Manager
  - c) From City Clerk
    1. Board of Canvassers Certificate of Election
    2. Oaths of Office
      - Jack Poll, Mayor
      - Sam Bolt, Councilmember-At-Large
      - Kent Vanderwood, Councilmember-At-Large
      - Sheldon DeKryger, Ward 1
- 13) Budget Amendments**
- 14) Consent Agenda**

*All items under this section are considered to be routine and will be enacted by one motion with no discussion. If discussion is desired by a Councilmember, that member may request removal from the Consent Agenda.*

- a) Of Appreciation to Kathryn DeYoung for Her Service as a Member of the Parks and Recreation Commission for the City of Wyoming
- b) To Appoint Richard Hamilton as a Member of the Wyoming Parks and Recreation Commission Representing the Godwin Heights Public School District
- c) To Establish and Change Certain Regular City Council Meeting Dates in the 2019 Calendar Year
- d) To Set Meeting Days and Times for the City of Wyoming Boards and Commissions
- e) To Set a Public Hearing for the Approval of an Application for an Industrial Facilities Exemption Certificate for HME Inc., 1905 Chicago Drive SW, in the City of Wyoming (December 17, 2018 at 7:01 p.m.)

**15) Resolutions**

- f) To Certify the Election of Mayor Pro Tem for the City of Wyoming
- g) To Amend a Portion of the City of Wyoming Fee Schedule
- h) To Object to Any Waiver of Requirement for 1000-Foot Distance Between a Wyoming Owned Park or Playground and a Marihuana Facility Within Grand Rapids
- i) To Grant Preliminary Plat Final Approval for Rivertown Valley Plat IV
- j) To Grant Final Plat Approval for the Proposed Reservoir Ridge

**16) Award of Bids, Contracts, Purchases, and Renewal of Bids and Contracts**

- k) To Accept a Proposal from Prein & Newhof to Perform Design Engineering Services for the First Phase of Wyoming's Third Transmission Pipeline and to Authorize the Mayor and City Clerk to Execute the Contract (Budget Amendment No. 42)

**17) Ordinances**

- 17-18 To Amend Section 90-32 of the Code of the City of Wyoming by Adding Subsection (117) to Conditionally Rezone 5189 Byron Center Ave SW from R-1 to RO-1 (Final Reading)
- 19-18 To Amend Chapter 14, Article VI, of the City Code to Prohibit Recreational Marihuana Establishments and Medical Marihuana Facilities in the City  
IMMEDIATE EFFECT
- 20-18 To Repeal Section 50-162 and to Amend Chapter 50, Article V, Division 2, of the City Code to Prohibit Use of Marihuana by Underage Persons or in Public Places and to Prohibit Possession and Use of Drug Paraphernalia in the City  
IMMEDIATE EFFECT
- 21-18 To Amend Chapter 86, Article III of the City Code to Update the City's Sanitary Sewer Use Requirements (First Reading)

**18) Informational Material**

**19) Acknowledgment of Visitors**

*This public comment period is an opportunity to share concerns or present topics to the City Council that were not part of this meeting's agenda. This is not an opportunity for dialog with Council, but Council may make referrals or request staff to follow up. Please provide your name and address when approaching the podium. There is a 3 minute limit per person.*

**20) Closed Session** (as necessary)

**21) Adjournment**

## CERTIFICATE OF DETERMINATION

The Board of Canvassers of the County of Kent, State of Michigan, having ascertained and canvassed the votes of the said **CITY OF WYOMING** at the General Election held on Tuesday, the 6<sup>th</sup> day of November 2018,

**DOES HEREBY CERTIFY AND DETERMINE THAT:**

JACK POLL, having received a sufficient number of votes, is elected **Mayor**.

SAM BOLT, having received a sufficient number of votes, is elected **Council Member at Large**.

KENT VANDERWOOD, having received a sufficient number of votes, is elected **Council Member at Large**.

SHELDON DEKRYGER, having received a sufficient number of votes, is elected **Council Member, Ward 1**.

**IN WITNESS WHEREOF**, we have set our hands and affixed the seal of the County of Kent, State of Michigan, this Tuesday, November 20, 2018.

### MEMBERS OF THE BOARD OF CANVASSERS

Judith J. Overeen Chairperson  
Jane E. Uyl  
Edward R. Turner  
Marie A. Howell



**ATTEST:**

Lisa Posthumus Lyons  
Lisa Posthumus Lyons, Kent County Clerk/Register of Deeds

11/20/18  
Date

RESOLUTION NO. \_\_\_\_\_

RESOLUTION OF APPRECIATION TO KATHRYN DEYOUNG FOR HER SERVICE  
AS A MEMBER OF THE PARKS AND RECREATION COMMISSION  
FOR THE CITY OF WYOMING

WHEREAS:

1. Kathryn DeYoung has served faithfully and effectively as a member of the Parks and Recreation Commission since June 20, 2016.

NOW, THEREFORE, BE IT RESOLVED:

1. Councilmembers and citizens of the City of Wyoming wish to express their deep appreciation to Kathryn DeYoung for her dedicated service as a member of the Parks and Recreation Commission.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO APPOINT RICHARD HAMILTON AS A MEMBER OF THE  
WYOMING PARKS AND RECREATION COMMISSION REPRESENTING  
THE GODWIN HEIGHTS PUBLIC SCHOOL DISTRICT

WHEREAS:

1. There is a vacancy in the position of Godwin Heights Public School District Representative on the Wyoming Parks and Recreation Commission for a term expiring June 30, 2019.
2. The Godwin Heights Public School District has recommended that Richard Hamilton be appointed to the Wyoming Parks and Recreation Commission as a representative of the district.
3. It is the desire of the City Council that Richard Hamilton be appointed to fill the term on the Parks and Recreation Commission.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby appoint Richard Hamilton as a member of the Parks and Recreation Commission for the City of Wyoming for the term ending June 30, 2019.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO ESTABLISH AND CHANGE CERTAIN REGULAR CITY COUNCIL  
MEETING DATES IN THE 2019 CALENDAR YEAR

WHEREAS:

1. Public Act 267 of 1976 requires that the meeting dates of the City Council be publicly posted, listing the dates, times and places of all the regularly scheduled meetings for the 2019 calendar year.
2. On certain regularly scheduled meeting dates in 2019, the City and the Nation will celebrate holidays which conflict with the regular schedule.
3. It is deemed advisable to adjust the regular meeting schedule to accommodate holiday scheduling.

NOW, THEREFORE, BE IT RESOLVED:

1. That the regular meetings of the Wyoming City Council will be held on the first and third Mondays at 7:00 p.m., except in September, when the first meeting shall be on Tuesday, September 3.
2. That the work sessions of the City Council shall be held on the second Monday of each month at 7:00 p.m., except in November, when the work session shall be on Tuesday, November 12.
3. That committee of the whole meetings of the City Council shall be called as needed.
4. That all dates for regular and work session meetings of the Wyoming City Council be as described on the attached schedules.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. \_\_\_\_\_

**SCHEDULED MEETING DATES OF THE WYOMING CITY COUNCIL  
REGULAR COUNCIL MEETINGS FOR THE YEAR 2019**

ALL MEETINGS BEGIN AT 7:00 PM AND ARE HELD IN THE WYOMING CITY HALL LOCATED AT 1155 28<sup>TH</sup> ST SW, WYOMING, MICHIGAN IN THE CITY COUNCIL CHAMBERS.

THE COMPLETE ADDRESS OF WYOMING CITY HALL IS 1155 28<sup>TH</sup> STREET SW, P.O. BOX 905, WYOMING, MICHIGAN 49509-0905.

**REGULAR COUNCIL MEETING DATES**

MONDAY, JANUARY 7, 2019  
MONDAY, JANUARY 21, 2019

MONDAY, FEBRUARY 4, 2019  
MONDAY, FEBRUARY 18, 2019

MONDAY, MARCH 4, 2019  
MONDAY, MARCH 18, 2019

MONDAY, APRIL 1, 2019  
MONDAY, APRIL 15, 2019

MONDAY, MAY 6, 2019  
MONDAY, MAY 20, 2019

MONDAY, JUNE 3, 2019  
MONDAY, JUNE 17, 2019

MONDAY, JULY 1, 2019  
MONDAY, JULY 15, 2019

MONDAY, AUGUST 5, 2019  
MONDAY, AUGUST 19, 2019

**TUESDAY, SEPTEMBER 3, 2019**  
MONDAY, SEPTEMBER 16, 2019

MONDAY, OCTOBER 7, 2019  
MONDAY, OCTOBER 21, 2019

MONDAY, NOVEMBER 4, 2019  
MONDAY, NOVEMBER 18, 2019

MONDAY, DECEMBER 2, 2019  
MONDAY, DECEMBER 16, 2019

**SCHEDULED WORK SESSION MEETING DATES OF THE  
WYOMING CITY COUNCIL FOR THE YEAR 2019**

ALL MEETINGS BEGIN AT 7:00 PM AND ARE HELD IN THE WYOMING CITY HALL  
LOCATED AT 1155 28<sup>TH</sup> ST SW, WYOMING, MICHIGAN IN THE CITY COUNCIL  
CHAMBERS.

THE COMPLETE ADDRESS OF WYOMING CITY HALL IS 1155 28<sup>TH</sup> STREET SW,  
P.O. BOX 905, WYOMING, MICHIGAN 49509-0905.

**WORK SESSION MEETING DATES**

MONDAY, JANUARY 14, 2019

MONDAY, FEBRUARY 11, 2019

MONDAY, MARCH 11, 2019

MONDAY, APRIL 8, 2019

MONDAY, MAY 13, 2019

MONDAY, JUNE 10, 2019

MONDAY, JULY 8, 2019

MONDAY, AUGUST 12, 2019

MONDAY, SEPTEMBER 9, 2019

MONDAY, OCTOBER 14, 2019

**TUESDAY, NOVEMBER 12, 2019**

MONDAY, DECEMBER 9, 2019

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO SET MEETING DAYS AND TIMES FOR THE  
CITY OF WYOMING BOARDS AND COMMISSIONS

WHEREAS:

1. Section 2.113 of the City Code of Ordinances states that days and times of board and commission meetings shall be set by City Council resolution.

NOW, THEREFORE, BE IT RESOLVED:

1. Wyoming City Council does hereby set the days and times for the Wyoming Boards and Commissions as listed on the attached schedule.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:

2019 Boards & Commissions Calendar

Resolution No. \_\_\_\_\_

CITY OF WYOMING  
BOARDS - COMMISSIONS - COMMITTEES  
2019 MEETING SCHEDULE

<b>BOARD OF REVIEW</b>	
Monday, March 11, 9:00 a.m. – noon, and 1:30 p.m.– 4:30 p.m.	City Hall - 1155 28 <sup>th</sup> Street SW
Tuesday, March 12, 1:30 p.m. – 4:30 p.m., and 6:00 p.m.– 9:00 p.m.	
Wednesday, March 13, 9:00 a.m. – noon, and 1:30 p.m. – 4:30 p.m.	
Thursday, March 14, 1:30 p.m. – 4:30 p.m., and 6:00 p.m. – 9:00 p.m.	
Tuesday, July 16, 2:00 p.m.	
Tuesday, December 10, 2:00 p.m.	
<b>BUILDING AUTHORITY</b>	
At the call of the Chair	City Hall - 1155 28 <sup>th</sup> Street SW
<b>COMMUNITY DEVELOPMENT COMMITTEE</b>	
At the call of the Chair	City Hall - 1155 28 <sup>th</sup> Street SW
<b>COMMUNITY ENRICHMENT COMMISSION</b>	
7:00 p.m. on the 3 <sup>rd</sup> Tuesday of each month (no meeting in June, July and August )	City Hall - 1155 28 <sup>th</sup> Street SW
<b>CONSTRUCTION BOARD OF APPEALS</b>	
3:00 p.m. on the 2 <sup>nd</sup> Monday of each month at the call of the Chair	City Hall - 1155 28 <sup>th</sup> Street SW
<b>DOWNTOWN DEVELOPMENT AUTHORITY</b>	
7:30 a.m. on the 2 <sup>nd</sup> Tuesday of January, April, July, and October	City Hall - 1155 28 <sup>th</sup> Street SW
<b>ECONOMIC DEVELOPMENT CORPORATION AND BROWNFIELD REDEVELOPMENT AUTHORITY</b>	
4:00 p.m. on the 4 <sup>th</sup> Monday: ( January 29), April, July, and October	City Hall - 1155 28 <sup>th</sup> Street SW
<b>ELECTION COMMISSION</b>	
At the call of the City Clerk	City Hall - 1155 28 <sup>th</sup> Street SW
<b>GREATER WYOMING COMMUNITY RESOURCE ALLIANCE</b>	
9:00 a.m. on the 4 <sup>th</sup> Tuesday of each month	City Hall - 1155 28 <sup>th</sup> Street SW
<b>HEALTH INSURANCE TRUST BOARD</b>	
3:00 p.m. on the 4 <sup>th</sup> Monday of January, April, July, October	City Hall - 1155 28 <sup>th</sup> Street SW
<b>HISTORICAL COMMISSION</b>	
6:30 p.m. on the 3 <sup>rd</sup> Wednesday of each month (no meeting in December)	Wyoming Public Library - 3350 Michael SW
<b>HOUSING BOARD OF APPEALS</b>	
7:00 p.m. on the 1 <sup>st</sup> Thursday of each month at the call of the Chair	City Hall - 1155 28 <sup>th</sup> Street SW
<b>HOUSING COMMISSION</b>	
1:00 p.m. on the 3 <sup>rd</sup> Tuesday: January 15, March 19, May 21, August 20, October 15, December 17	Housing Commission - Westwood Apartments 2450 36 <sup>th</sup> Street SW
<b>OFFICERS COMPENSATION COMMISSION</b>	
In every odd-numbered year at the call of the Chair	City Hall - 1155 28 <sup>th</sup> Street SW
<b>PARKS AND RECREATION COMMISSION</b>	
7:00 p.m. on the 2 <sup>nd</sup> Wednesday of each month (no meeting in July & Aug.)	City Hall - 1155 28 <sup>th</sup> Street SW
<b>PLANNING COMMISSION</b>	
7:00 p.m. on the 3 <sup>rd</sup> Tuesday of each month	City Hall - 1155 28 <sup>th</sup> Street SW
<b>RETIREMENT BOARD</b>	
3:00 p.m. on the 3 <sup>rd</sup> Monday of each month	City Hall - 1155 28 <sup>th</sup> Street SW
<b>TREE COMMISSION</b>	
12:30 p.m. on the 2 <sup>nd</sup> Monday of each month	City Hall – 1155 28 <sup>th</sup> Street SW
<b>WATER SYSTEM ADVISORY COUNCIL</b>	
4:00 p.m. on the 1 <sup>st</sup> Wednesday: March 6, June 5, September 4, December 4	City Hall – 1155 28 <sup>th</sup> Street SW
<b>WKTU COMMISSION</b>	
6:00 p.m. on the 1 <sup>st</sup> Tuesday of each month	WKTU - 5261 Clyde Park Avenue SW
<b>ZONING BOARD OF APPEALS</b>	
1:30 p.m. on the 1 <sup>st</sup> and 3 <sup>rd</sup> Monday of each month	City Hall - 1155 28 <sup>th</sup> Street SW

\*\* NOTICE GIVEN PURSUANT TO PUBLIC ACT 267, OF 1976, AS AMENDED, BEING MCL 15.261  
For further information regarding a scheduled meeting, contact the office of the City Clerk at 1155 28th St. SW, Wyoming, MI 49509-0905. Phone 616-530-7296.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO SET A PUBLIC HEARING FOR THE APPROVAL OF AN APPLICATION  
FOR AN INDUSTRIAL FACILITIES EXEMPTION CERTIFICATE FOR  
HME INC., 1905 CHICAGO DRIVE SW, IN THE CITY OF WYOMING

WHEREAS:

1. The City established Industrial Development District Number 303, under Act 198, Public Acts of 1974, as amended, by adopting Resolution Number 26043 on April 16, 2018.
2. HME Inc. has filed an application for an Industrial Facilities Exemption Certificate under Act 198 with respect to modifying their facility located within Industrial Development District 303, with an estimated cost of \$1,550,000 for real property to be located at 1905 Chicago Drive SW.
3. Act 198 requires the City to hold a public hearing on the approval of this application.

NOW, THEREFORE, BE IT RESOLVED:

1. A public hearing on whether to approve the application by HME Inc., for an Industrial Facilities Exemption Certificate shall be held at 7:01 p.m. on Monday, December 17, 2018 in the City Council Chambers, City Hall, 1155 28<sup>th</sup> Street SW, Wyoming, Michigan.
2. Notice of this hearing shall be given to the applicant, the City Assessor, and a representative of each affected taxing unit, and shall be posted in City Hall.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

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Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Exhibit A – Legal Description

Resolution No. \_\_\_\_\_

**STAFF REPORT**

Date: November 20, 2018  
Subject: HME Inc., 1905 Chicago Drive SW  
From: Jennifer Stowell, Administrative Assistant to the City Manager  
Meeting Date: December 3, 2018

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Recommendation:

Staff recommends a twelve (12) year Industrial Facilities Exemption Certificate (IFT) abatement be granted to HME Inc., based on the City of Wyoming’s Economic Development Policy.

Sustainability Criteria:

Environmental Quality – HME Inc. has proven to be responsible and cooperative in their efforts to be environmentally responsible. Furthermore, approval of the expansion on this industrial site is consistent with the City’s Land Use Plan.

Social Equity – Approval of this application does not significantly impact social equity.

Economic Strength – Approval of this application will help retain and expand a local industrial company, encourage continued investment by HME Inc. and provide additional employment opportunities to the area.

Discussion:

HME Inc. has conducted business in the City of Wyoming for thirty years and is requesting the approval of an IFT. Staff has reviewed the IFT application, which is summarized below by facility:

Address of project:	1905 Chicago Drive SW Wyoming, MI 49519
Personal Property:	\$ 0.00
Real Property:	\$ 1,550,000.00
Estimated Jobs:	5 new jobs 8 retained jobs
Starting date of project:	June, 2018

**Project Summary:**

HME Inc. has done business in Wyoming for thirty years and manufactures fire trucks and distributes heavy duty truck parts in North America. They will be building a new 20,000 square foot distribution facility. HME currently employs 163 people in Wyoming, of which 8 are included in the distribution operations. They anticipate hiring 5 new employees.

**Budget Impact:**

The estimated first year tax savings for HME Inc., which is located in the Wyoming School District, is \$23,233.61.

**EXHIBIT A**

**Legal Description – HME, Inc.**

**Address:** 1905 Chicago Drive SW, Wyoming, 49519

**Tax Parcel No.:** 41-17-03-401-003

**Legal Description:**

Y88: PART E 1/2 OF SEC COM 1063.1 FT ELY A- LONG CL OF STL M21 FROM CL OF ACME PLASTER CO'S SPUR TRACK TH NELY ALONG SD HWY CL 229.6 FT TH N PAR WITH E SEC LINE 841.04 FT TO S LINE OF C&O RR MAIN-LINE R/W TH SWLY ALONG SD R/W LINE TO INT OF A LINE WHICH IS PERP TO SD HWY CL AT THE PLACE OF BEG TH SELY 710.06 FT TO BEG SEC 3 T6N R12W 6.74 A.

12/03/18  
Clerk/RG

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION TO CERTIFY THE ELECTION  
OF MAYOR PRO TEM  
FOR THE CITY OF WYOMING, MICHIGAN

WHEREAS:

1. The City Charter provides in Section 4.4 for the election of a Mayor Pro Tem by a majority of the City Council at the first meeting following the regular City election, after the newly-elected members take office.
2. In the absence or disability of the Mayor, the Mayor Pro Tem shall perform the duties of the Mayor.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby certify the election of Councilmember \_\_\_\_\_ to the Office of Mayor Pro Tem by a majority vote of the City Council for a term expiring at the first City Council meeting following the next regular City election.

Moved by Councilmember:  
Seconded by Councilmember:  
Motion Carried        Yes  
                                     No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. \_\_\_\_\_

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO AMEND A PORTION OF THE  
CITY OF WYOMING FEE SCHEDULE

WHEREAS:

1. The City of Wyoming establishes by resolution certain fees.
2. From time to time information related to fees is reviewed to ensure they cover related costs.
3. Section X of the existing Fee Schedule is in need of amendment.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council of the City of Wyoming hereby adopts the attached revision to Section X – Utilities.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:

Proposed Fee Schedule

## X - UTILITIES

These fees will be effective as of January 1, 2019

### WASTEWATER PENALTIES

Concentration Level	Primary, Secondary and Tertiary Pollutants Average Quarterly Flow, gpd			
	0-10,000 Gals/Day*	10,000- 50,000 Gals/Day*	50,000- 100,000 Gals/Day*	>100,000 Gals/Day*
0-Limit (x)	No penalty	No penalty	No penalty	No penalty
>1(x) - 2(x)	\$56.87	\$113.74	\$170.64	\$227.51
>2(x) - 3(x)	113.74	227.51	341.26	455.02
>3(x) - 4(x)	170.64	341.26	511.90	682.53
>4(x)	284.38	568.77	853.16	1,000.00**

(x) Individual limits as listed in Sections 86-292 (b) (1) (b) and 86-292 (b) (2) (b) and 86-292 (b) (3) (b), General Maximum Limits for Primary, Secondary and Tertiary Toxic Pollutants.

pH	pH Penalty Average Quarterly Flow, gpd			
	0-10,000 Gals/Day*	10,000- 50,000 Gals/Day*	50,000- 100,000 Gals/Day*	>100,000 Gals/Day*
5.0 - 10.5	No penalty	No penalty	No penalty	No penalty
4.0 - 4.9	\$17.08	\$34.14	\$51.20	\$68.27
3.0 - 3.9	45.50	91.00	136.51	182.01
0 - 2.9	85.32	170.64	341.26	853.16
10.6 – 10.9	17.08	34.14	51.20	68.27
11.0 - 11.9	45.50	91.00	136.51	182.01
≥ 12.0	85.32	170.64	341.26	853.16

\*Based on average day for previous quarter

\*\* Maximum penalty allowed by law

## TREATED GROUNDWATER DISCHARGE

The following fees for treated groundwater discharges to the POTW are established:

(1) Permit fee, per permit issuance	199.07
(2) Inspection fee, per inspection	170.64

## WASTEWATER SURCHARGE RATES

BOD	Up to 460 mg/L	> 460 mg/L
Rate/lb.	\$0.00	\$0.158
SS	Up to 260 mg/L	> 260 mg/L
Rate/lb.	\$0.00	\$0.196
Phosphorus	Up to 12 mg/L	> 12 mg/L
Rate/lb.	\$0.00	\$1.59
Oil and Grease	Up to 91 mg/L	> 91 mg/L
Rate/lb.	\$0.00	\$0.126
Ammonia	Up to 32 mg/L	> 32 mg/L
Rate/lb.	\$0.00	\$0.14

## INSTALLATIONS

### Water Meters:

Meter Size	Charge
5/8 inch	\$ 224.09
1 inch	298.04
1.5 inch	534.65
2 inch	671.15
2 inch compound	1,751.83
3 inch	856.58
4 inch	2,107.88
6 inch	3,441.08
8 inch	5,305.54

### Water Service Installation to Stop Box Only

1"	1,750.00
1.5"	2,727.00
2"	2,727.00

Watermain Tapping Actual cost plus 25%

Water System Development Charge  
by tap size

1 inch	1,308.18
1 ½ inch	4,174.82
2 inch	5,221.36
3 inch	11,728.14
4 inch	31,237.13
6 inch	78,058.68
8 inch	104,074.40
12 inch	148,939.40

Sewer System Development Charge  
by water tap size

1 inch	1,301.36
1 ½ inch	4,166.84
2 inch	5,192.92
3 inch	11,687.18
4 inch	31,119.95
6 inch	77,831.17
8 inch	103,770.70
12 inch	155,649.80

WATER SERVICE

Quarterly Ready-to-Serve Charge applicable to all customers with public water service. Ready-to-Serve Charge will be assessed whether or not the water meter is installed and whether or not water is being used. The ready-to-serve is not charged if the water lateral is capped because of destruction or demolition of the structure served by the lateral or for specific cases as decided by the Director of Utilities.

Water Meter Size Charges

5/8 inch	\$ 23.31
1 inch	47.79
1 1/2 inch	102.57
2 inch	158.53
3 inch	275.08
4 inch	514.04
6 inch	1,058.83
8 inch	1,782.23

Water commodity rate (in addition to Readiness to Serve Charge):

Quantity steps applicable rate, per 100 cubic feet: \$1.22

SEWER SERVICE

Quarterly Ready-to-Serve Charge applicable to all customers with public sewer service. Ready-to-Serve Charge will be assessed whether or not sewer is being used. The ready-to-serve is not charged if the sewer lateral is capped because of destruction or demolition of the structure served by the lateral or for specific cases as decided by the Director of Utilities.

Water Meter Size	Charges
5/8 inch or no meter	\$ 17.43
1 inch	30.43
1 1/2 inch	56.48
2 inch	82.46
3 inch	199.57
4 inch	329.69
6 inch	654.91
8 inch	980.15
12 inch	1,505.80

Sanitary Sewer commodity rate (in addition to Readiness to Serve Charge):  
per 100 cubic feet (hereinafter referred to as billing unit) of water use per quarter: \$2.94

Residential sewer billing units shall be determined by using 1.15 times the water use for the winter quarter which is hereby defined as any 3 months between November 1 and April 30. However, when the winter quarter use is less than 10 billing units, then 10 billing units shall be used. Provided, however, that in no case shall the billing units for sewer be greater than the total water use for any particular quarter.

Effective July 1, 2018, the minimum charge per quarter for those residential sewer users not served by the City's water system shall be \$47.04 plus the applicable Ready to Serve Charge.

LATE CHARGE

A penalty of 10% of current charges for water and sewer will be added to any bill paid after the due date on the bill.

Customers with sewer only service shall have a service charge of 1 ½ percent per month assessed on the unpaid balance for that delinquent portion of their bill which becomes a lien placed on the property tax roll.

## FIRE SPRINKLER CONNECTION

(per year charge applicable to unmetered connections):

4 inch and smaller connections to City main	\$ 164.96
6 inch connection to City main	519.88
8 inch connection to City main	883.88
10 inch connection to City main	1,820.08
12 inch connection to City main	2,959.88

## MISCELLANEOUS FEES

Cash deposit for Section 86.43(4)	150.00
Collection Cost Recovery Fee	40.00
Water Construction Fee (60 days)	61.00
Pool Filling Permit:	
Homeowner and contractor	61.00
Miscellaneous Hydrant Usage:	
Used one day	61.00
Used after first day	61.00
Plus metered usage at current water rate, plus 100%	
Unauthorized hydrant use, penalty of	500.00
Unauthorized water use, penalty of	500.00

### NPDES Permit Treated Groundwater

The permit fee for treated groundwater discharge shall be  
\$.08 per 100 cubic feet.

## WASTE HAULERS

The following fees for waste haulers permitted to discharge to the POTW are established.  
Fees shall be assessed quarterly.

Leachate haulers Treatment Fee, per 100 cubic feet discharged \$8.98

Miscellaneous waste haulers including septage haulers:  
(to be paid in advance)

\$80.47 per 1000 gallons per load, or fraction thereof

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO OBJECT TO ANY WAIVER OF REQUIREMENT FOR 1000-FOOT  
DISTANCE BETWEEN A WYOMING OWNED PARK OR PLAYGROUND AND  
A MARIHUANA FACILITY WITHIN GRAND RAPIDS

WHEREAS:

1. The City of Grand Rapids (“Grand Rapids”) approved and is considering amendments to an ordinance allowing medical marihuana facilities within certain areas in Grand Rapids.
2. That ordinance generally requires a 1,000 foot distance between such facilities and publicly-owned parks or playgrounds but that requirement could be waived.
3. The proposed ordinance amendment will require consideration of an objection to such a waiver made by the owner of a publicly-owned park or playground.
4. The City of Wyoming (“Wyoming”) owned Marquette Park is one such publicly owned park and playground that appears to be within 1,000 feet of property within Grand Rapids that is, at least according to some information on the Grand Rapids’ website, potentially suitable for locating a medical marihuana facility.
5. Wyoming is wary of marihuana facilities and their compatibility with other land uses such as public parks and playground used by families and children.
6. The Wyoming City Council believes it may be prudent, informative, and helpful to notify Grand Rapids and, by notifying Grand Rapids, also indirectly informing persons who may seek Grand Rapids’ approval for medical marihuana facilities, that Wyoming objects to the waiver of any required distancing between medical marihuana facilities and Wyoming owned parks, playgrounds and other public places.

NOW, THEREFORE, BE IT RESOLVED:

1. Wyoming objects to the waiver of any distancing requirement between any medical marihuana facility considered for any location within Grand Rapids and the location of any Wyoming owned park, playground or other public space.
2. Wyoming currently perceives medical marihuana facilities and recreational marihuana establishments to be land uses incompatible with publicly owned parks, playgrounds and other public spaces.
3. The City Manager is authorized and directed to transmit copies of this resolution to the Grand Rapids Mayor, City Manager, City Clerk and Planning Director.
4. All resolutions and parts of resolutions are, to the extent any conflict with this Resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried     Yes  
                              No

I certify that this resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

---

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. \_\_\_\_\_

## STAFF REPORT

Date: November 28, 2018  
Subject: Resolution Objecting to Marihuana Facility Distancing Waiver  
From: Scott Smith, City Attorney  
Meeting Date: December 3, 2018

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### Background:

The City of Grand Rapids (“Grand Rapids”) has adopted and is considering amendments to an ordinance “opting-in” and permitting medical marihuana facilities, licensed by the state under the Medical Marihuana Facilities Licensing Act to operate within certain areas of Grand Rapids. As currently written, those facilities could not be located within 1,000 feet of publicly owned parks and playgrounds (or within certain distances of other land uses), unless the owner of such land uses consents to a waiver of that distancing requirement. The proposed amendment recommended by the Grand Rapids Planning Commission and yet to be considered by the Grand Rapids City Commission would alter that requirement so consent of the owner of those land uses would not be required for a waiver. Instead, objections from the owner of a land use would be considered when Grand Rapids decides whether or not to waive the distancing requirement for a given proposed facility on a particular site.

Some of the sites Grand Rapids has identified as potentially suitable for medical marihuana facilities are located near Grand Rapids’ periphery and, therefore, near property in other communities. Some of the land uses in the surrounding communities would, if located in Grand Rapids, have been identified on the maps provided by Grand Rapids as land uses requiring distancing from medical marihuana facilities. Grand Rapids has placed the onus of the applicant for approval of a site for a medical marihuana facility to notify the owners of any property the use of which meets a distancing requirement and is implicitly acknowledging there are such sites outside the Grand Rapids city limits. One might read the proposed amendment allowing Grand Rapids to grant waivers from its distancing requirements without the consent and even despite the objections of the owner of the land use requiring the distancing, as enabling Grand Rapids to ignore the incompatibility (implicit in Grand Rapids’ protections for such land uses located within Grand Rapids) of medical marihuana facilities and land uses such as public parks and playgrounds located outside Grand Rapids’ city limits.

Wyoming’s Marquette Park is located within 1,000 feet of an area Grand Rapids has identified as possibly available for locating medical marihuana facilities provided a distancing waiver is granted. Concerns of Wyoming residents living near Marquette Park about medical marihuana facilities near that park may not be as carefully considered as a Wyoming City Council resolution. Wyoming residents are not Grand Rapids voters, so their individual voices may not be as effective as an official communication from Wyoming.

Moreover, it may be helpful, both to Grand Rapids’ leaders and to those seeking locations for medical marihuana facilities to understand that Wyoming objects to their location in proximity to Wyoming parks, playgrounds and public spaces. While Grand Rapids’ decision makers may or may not be swayed by Wyoming’s stated objections, an early and clear statement of those objections will, at the very least, be informative. If Grand Rapids takes those objections to heart, it may modify the maps on which it identifies potential locations for medical marihuana facilities. Even if Grand Rapids does not modify those maps, Grand Rapids staff could inform seekers of locations for medical marihuana facilities of Wyoming’s objections which may cause them to look at other sites for which no such objections have been expressed.

Finally, Grand Rapids has taken no action on recreational marihuana establishments. Unless it adopts an ordinance to “opt-out” recreational marihuana establishments will be allowed in Grand Rapids. If Grand Rapids decides to regulate the location of recreational marihuana establishments in a manner similar to its regulation of the locations of medical marihuana facilities, early communication of Wyoming’s concerns may assist Grand Rapids in its recreational marihuana ordinance drafting and consideration.

Recommendation:

Adopt the “Resolution Objecting to Any Waiver of Requirement for 1000-Foot Distance between a Wyoming Owned Park or Playground and a Marihuana Facility within Grand Rapids.”

Sustainability Criteria:

Environmental Quality – Approval will communicate Wyoming’s concerns about the impacts a medical marihuana facility in its proximity would have on the desirability and use of Marquette Park.

Social Equity – It is important to seek to protect all of Wyoming public parks against adverse impacts from the potential location of possibly less desirable land uses within their proximity.

Economic Strength – Parks are important local investments that should be protected against land use that may make the parks less desirable to city residents.

Quality Customer Service – The City Council’s communication to Grand Rapids on behalf of Wyoming citizens may be more effective than communications only from those Wyoming residents to Grand Rapids.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO GRANT PRELIMINARY PLAT FINAL APPROVAL FOR  
RIVERTOWN VALLEY PLAT IV (AKA "THE RESERVE AT RIVERTOWN")

WHEREAS:

1. At its September 4, 2018, the City Council granted preliminary plat tentative approval of the Rivertown Valley Plat phases IV through IX (also known as "The Reserve at Rivertown" and previously referred to as "The Reserve Phases 1-6"), subject to certain conditions.
2. Some of the conditions imposed by that September 4 Resolution have been met.
3. At its meeting of November 20, 2018, the Planning Commission recommended to the City Council approval of the Rivertown Valley Plat IV, also known as "The Reserve at Rivertown – Phase IV" and sometimes previously referred to as "Rivertown Valley Plat – Phase IV," "The Reserve" and "The Reserve at Rivertown – Phase I," (hereinafter the "Plat") subject to additional conditions.
4. The Plat will integrate with the adjoining residential subdivisions.
5. The Plat conforms with the City Land Use Plan 2020, the City zoning ordinance and the City subdivision ordinance.

NOW, THEREFORE, BE IT RESOLVED:

1. Preliminary approval of the Plat is granted subject to the following conditions:
  - A. Not later than December 30, 2018, the Developer shall enter an agreement with the City, in a form and substance approved by the City Manager and City Attorney, to participate in cost sharing for the Regional Storm Sewer System.
  - B. Lots sold within the Plat shall include a deed restriction or covenant requiring owners of each lot in the Plat to be a member of and obligated to pay dues and special assessments imposed by a homeowners' association to be formed by the developer prior to the sale of any lot in the Plat as required by the (i) conditions imposed on the Planning Commission's approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as "The Reserve at Rivertown," (ii) the terms of the Stipulated Final Order entered by the Kent County Circuit Court in *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, on September 5, 2018, a certified copy of which was recorded with the Kent County Register of Deeds that same day at record number 20180905-0069241, and (iii) by Ordinance No. 14-18 adopted by the City Council on September 4, 2018 that rezoned the property included in the Plat. Drafts provided to the City attorney prior to the date of this Resolution meet this requirement.
  - C. Compliance with all conditions of the Planning Commission's approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as "The Reserve at Rivertown" (the "Overall Development Plan") as they relate to the Plat, including, without limitation, amenities to be constructed within or available to occupants of the plat, or any improvements comprising or within the plat.

- D. Construction of the Plat shall include construction of the path connecting the tennis courts and parking as shown on the Overall Development Plan.
  - E. Fire hydrants shall be provided in accordance with standard Wyoming city requirements.
  - F. Addressing of streets shall be based on street directional E/W and N/S.
2. All resolutions and parts of resolutions are, to the extent any conflict with this Resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried    Yes

                          No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

---

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. \_\_\_\_\_

November 28, 2018

Ms. Kelli A. Vandenberg  
City Clerk  
Wyoming, MI

Subject: Request to grant Preliminary Plat – Final Approval for The Reserve at Rivertown Phase IV. This property is located at Wilson Avenue and 56<sup>th</sup> Street. (Section 32) (The Granger Group)

Recommendation: To grant Preliminary Plat – Final Approval.

Dear Ms. Vandenberg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on November 20, 2018. A motion was made by Weller, supported by Arnoys, to grant Preliminary Plat Final Approval for The Reserve at Rivertown Phase 4 and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System, and the following conditions:

1. That Phase 4 includes construction of path connecting Tennis Courts and parking.
2. Addressing of streets shall be based on street directional E/W and N/S.
3. Fire hydrants shall be provided per City requirements.

The motion passed unanimously following discussion. A detailed review of the request is available in the attached Planning Commission minutes. Following please find some background and other pertinent information.

This request is for Phase Four of a larger six phase project. This phase includes a large section of Reserve Drive and the construction of tennis courts.

The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation and street layout, with preliminary engineering. Preliminary Plat- Tentative Approval was approved by Planning Commission on August 30, 2018 and City Council on September 4, 2018 (meeting minutes attached for reference).

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. Upon full approval, construction may commence. The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

**Jack A. Poll, Mayor**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Hofert". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Nicole Hofert, City Planner  
Department of Community Services

Cc: Curtis Holt, City Manager  
Rebecca Rynbrandt, Director of Community Services



# REGISTER OF DEEDS

KENT COUNTY ADMINISTRATION BUILDING  
300 MONROE AVENUE, N.W.  
GRAND RAPIDS, MICHIGAN 49503  
TELEPHONE (616) 632-7610



LISA POSTHUMUS LYONS  
*County Clerk/Register*

JEROME CZAJA  
*Chief Deputy Register*

August 23, 2018

Moore & Bruggink, Inc  
2020 Monroe Ave, NW  
Grand Rapids, MI 49505-6298

To Whom This Matter Concerns:

The Kent County Plat Board Met on August 23, 2018. Tentative approval was given to the preliminary plat, **Rivertown Valley No. 4 – No. 9**, located in the City of Wyoming. Tentative approval is given, subject to the approval of all other units of government receiving copies of the preliminary plat.

Sincerely,



Jerome Czaja  
Chief Deputy Register of Deeds



# OFFICE OF THE DRAIN COMMISSIONER

*Ken Yonker, Drain Commissioner*

September 25, 2018

Justin Longstreth, P.E.  
Moore & Bruggink, Inc.  
2020 Monroe Ave, NW  
Grand Rapids, MI 49505-6298

**RE: Rivertown Valley Phase IV  
Section 32, T6N, R12W, City of Wyoming  
KCDC File No. 1934**

Dear Mr. Longstreth,

The Drain Commissioner's Office pursuant to the Land Division Act, ACT 288 of 1967, and the published Development Drainage Rules has reviewed the preliminary plans submitted on September 7, 2018 for Rivertown Valley Phase IV. Preliminary approval is granted at this time. We offer the following comments that shall be addressed with the construction submittal:

1. Construction plans and design computations shall be submitted for approval prior to construction. Construction shall NOT begin until construction approval has been granted. A profile shall be included of all storm sewer and floodways in the construction plans.
2. Stabilization measures and soil erosion control measures for the protection of the storm sewer system shall be included on the construction plans.
3. The storm water detention requirements are handled through the existing regional detention basin. Any additional restrictions shall be based on the review of the City of Wyoming. Please forward all review comments from the City for our records.
4. The following design computations shall be submitted for approval:
  - A drainage study map that shows contributing area to each component in the storm network. Include any offsite contribution.
  - Floodway calculations for the drainage swale up to the 100-yr event for all upstream drainage area. The MBO shall be placed a foot above the critical high-water elevation.
5. If sump pumps are to be installed, the Office of the Drain Commissioner recommends that storm sewer leads be installed for all lots for the connection of the sump discharges and/or eaves troughs.
6. Drainage swales located in private easements for drainage shall be graded, seeded, topsoiled, and covered with erosion control matting (e.g., North American Green SC-150, Contech Straw and Coconut Fiber Mat, or equal). The recommended minimum grade for backyard swales is 2%.

7. Inspect the existing conditions of the detention area that will be utilized for this site and present an inspection report.

With all future submittals, please provide a digital copy of the plans and computations along with a paper copy. If you have any questions, please contact the Drain Office.

Sincerely,



Angie E. Latvaitis  
Staff Engineer  
Office of the Kent County Drain Commissioner

cc. file  
Plat Board  
Jeff Oonk, Civil Engineer for City of Wyoming  
Granger Group, Developer

PROPERTY DESCRIPTION  
RIVERTOWN VALLEY NO. 4

THAT PART OF THE SOUTHWEST ONE-QUARTER AND PART OF THE SOUTHWEST ONE-QUARTER OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32; THENCE NORTH 88°44'39" WEST 1320.76 FEET ALONG THE SOUTH LINE OF SAID SECTION; THENCE NORTH 00°58'00" WEST 719.30 FEET ALONG THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION TO THE PLACE OF BEGINNING; THENCE SOUTH 52°18'28" WEST 276.63 FEET; THENCE NORTH 29°21'28" WEST 86.68 FEET; THENCE SOUTH 56°50'51" WEST 130.00 FEET; THENCE SOUTH 34°22'00" EAST 47.51 FEET; THENCE SOUTH 89°50'50" WEST 409.45 FEET; THENCE SOUTH 27°02'22" EAST 80.48 FEET; THENCE SOUTH 29°21'28" WEST 116.14 FEET; THENCE NORTH 01°00'00" EAST 56.30 FEET; THENCE NORTH 89°04'06" WEST 139.82 FEET; THENCE NORTH 88°18'27" WEST 60.00 FEET; THENCE NORTH 89°04'06" WEST 427.50 FEET; THENCE SOUTH 01°04'18" WEST 67.29 FEET; THENCE NORTH 88°04'08" WEST 74.91 FEET; THENCE SOUTH 00°50'52" WEST 52.05 FEET; THENCE NORTH 89°04'08" WEST 450.00 FEET; THENCE NORTH 00°50'52" EAST 274.56 FEET; THENCE SOUTH 89°04'08" EAST 204.45 FEET; THENCE NORTH 01°04'18" EAST 97.41 FEET; THENCE SOUTH 89°04'08" EAST 650.00 FEET; THENCE NORTH 01°04'18" EAST 407.29 FEET; THENCE NORTH 24°33'59" WEST 150.94 FEET; THENCE NORTH 00°41'53" WEST 3.61 FEET ALONG THE NORTH-SOUTH ONE-QUARTER LINE OF SAID SECTION; THENCE SOUTH 88°18'27" EAST 156.69 FEET ALONG THE SOUTH LINE OF RIVERTOWN VALLEY I (AS RECORDED IN INSTRUMENT NO. 20050506-005372, KENT COUNTY RECORDS); THENCE SOUTH 78°38'37" EAST 74.80 FEET ALONG THE SOUTH LINE OF SAID RIVERTOWN VALLEY I; THENCE SOUTH 89°13'36" EAST 170.99 FEET ALONG THE SOUTH LINE OF SAID RIVERTOWN VALLEY I; THENCE SOUTH 01°00'00" WEST 239.13 FEET ALONG THE WEST LINE OF RIVERTOWN VALLEY II (AS RECORDED IN INSTRUMENT NO. 20141210-010703, KENT COUNTY RECORDS); THENCE SOUTH 89°04'08" EAST 263.56 FEET (RECORDED AS 263.56 FEET) ALONG THE SOUTH LINE OF NILE DRIVE (A 60.00 FOOT WIDE PUBLIC RIGHT-OF-WAY) AND THE SOUTH LINE OF SAID RIVER TOWN VALLEY NO. 3; THENCE NORTHEAST 607.46 FEET (RECORDED AS 607.57 FEET) ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF NILE DRIVE AND THE SOUTHWESTERLY LINE OF SAID RIVERTOWN VALLEY NO. 3 ON A 330.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 88°04'47" EAST 274.75 FEET (RECORDED AS NORTH 88°04'47" EAST 274.85 FEET); DELTA ANGLE BEING 85°04'21"; THENCE SOUTH 67°58'59" EAST 35.08 FEET ALONG THE SOUTH LINE OF CHESTNUT RIDGE DRIVE (A 60.00 FOOT WIDE PUBLIC RIGHT-OF-WAY) AND THE SOUTH LINE OF SAID RIVERTOWN VALLEY NO. 3; THENCE EAST 65.22 FEET ALONG SAID CHESTNUT RIDGE DRIVE AND SAID RIVERTOWN VALLEY NO. 3 ON A 180.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 78°12'51" EAST 84.87 FEET; DELTA ANGLE BEING 20°45'37"; THENCE SOUTH 88°44'39" EAST 89.06 FEET ALONG THE SOUTH LINE OF SAID CHESTNUT RIDGE DRIVE AND SAID RIVERTOWN VALLEY NO. 3; THENCE SOUTH 00°58'14" EAST 130.00 FEET (RECORDED AS SOUTH 00°58'00" EAST) ALONG THE WEST LINE OF HICKORY RIDGE ESTATES NO. 3 (AS RECORDED IN LIBER 114 OF PLATS, PAGES 36 & 37, KENT COUNTY RECORDS) AND THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION TO THE PLACE OF BEGINNING.

17.8060 ACRES

PROPERTY DESCRIPTION  
RIVERTOWN VALLEY NO. 5

THAT PART OF THE SOUTHWEST ONE-QUARTER OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 32; THENCE NORTH 00°58'00" EAST 584.07 FEET ALONG THE WEST LINE OF SAID SECTION; THENCE SOUTH 89°04'08" EAST 60.00 FEET PARALLEL WITH AND 50.00 FEET EAST OF THE WEST LINE OF SAID SECTION; THENCE NORTH 89°21'18" EAST 407.38 FEET; THENCE NORTHERLY 197.81 FEET ON A 270.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 89°21'28" EAST 193.41 FEET; THENCE NORTHERLY AND EASTERLY 244.18 FEET ON A 330.00 FOOT RADIUS CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS NORTH 89°04'08" EAST 238.65 FEET; THENCE SOUTH 89°04'08" EAST 967.70 FEET; THENCE SOUTH 00°55'52" WEST 274.56 FEET; THENCE NORTH 89°05'48" WEST 579.34 FEET; THENCE NORTH 46°50'27" WEST 87.18 FEET; THENCE NORTH 77°14'44" WEST 40.33 FEET; THENCE NORTH 89°04'08" WEST 102.87 FEET; THENCE NORTH 01°04'18" EAST 101.48 FEET; THENCE NORTH 88°54'47" WEST 25.30 FEET; THENCE NORTH 83°02'40" EAST 130.00 FEET; THENCE NORTH 01°04'18" EAST 33.54 FEET; THENCE NORTH 21°56'38" WEST 160.86 FEET; THENCE NORTH 00°55'52" WEST 117.31 FEET; THENCE NORTH 89°04'08" WEST 85.39 FEET; THENCE NORTH 30°48'17" WEST 10.88 FEET; THENCE NORTH 00°50'52" EAST 200.10 FEET; THENCE NORTH 89°04'08" WEST 17.70 FEET; THENCE SOUTHWESTERLY 199.79 FEET ON A 270.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS SOUTH 89°14'00" WEST 195.26 FEET; THENCE SOUTHERLY AND EASTERLY 241.77 FEET ON A 330.00 FOOT RADIUS CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS SOUTH 69°31'25" WEST 236.40 FEET; THENCE NORTH 89°21'18" WEST 407.38 FEET TO THE PLACE OF BEGINNING.

6.8808 ACRES

PROPERTY DESCRIPTION  
RIVERTOWN VALLEY NO. 6

THAT PART OF THE SOUTHWEST ONE-QUARTER AND PART OF THE SOUTHWEST ONE-QUARTER OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING ON THE NORTH-SOUTH ONE-QUARTER LINE OF SAID SECTION AND IN PART OF THE WEST LINE OF RIVERTOWN VALLEY I (AS RECORDED IN LIBER 116 OF PLATS, PAGES 34 THRU 39, KENT COUNTY RECORDS) AND THE WEST LINE OF RIVERTOWN VALLEY II (AS RECORDED IN INSTRUMENT NO. 20050506-005372, KENT COUNTY RECORDS) AT A POINT BEING SOUTH 00°41'53" WEST 590.93 FEET FROM THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION; THENCE SOUTH 24°33'59" EAST 155.94 FEET; THENCE SOUTH 01°04'18" WEST 467.29 FEET; THENCE NORTH 88°54'47" WEST 650.00 FEET; THENCE SOUTH 01°04'18" WEST 97.41 FEET; THENCE NORTH 89°04'08" WEST 192.80 FEET; THENCE NORTH 01°04'18" EAST 101.48 FEET; THENCE NORTH 88°54'47" WEST 25.30 FEET; THENCE NORTH 83°02'40" EAST 130.00 FEET; THENCE NORTH 01°04'18" EAST 33.54 FEET; THENCE NORTH 21°56'38" WEST 160.86 FEET; THENCE NORTH 00°55'52" WEST 117.31 FEET; THENCE NORTH 89°04'08" WEST 85.39 FEET; THENCE NORTH 30°48'17" WEST 10.88 FEET; THENCE NORTH 00°50'52" EAST 200.10 FEET; THENCE NORTH 89°04'08" WEST 17.70 FEET; THENCE SOUTHWESTERLY 199.79 FEET ON A 270.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS SOUTH 89°14'00" WEST 195.26 FEET; THENCE SOUTHERLY AND EASTERLY 241.77 FEET ON A 330.00 FOOT RADIUS CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS SOUTH 69°31'25" WEST 236.40 FEET; THENCE NORTH 89°21'18" WEST 407.38 FEET TO THE PLACE OF BEGINNING.

14.0534 ACRES

PROPERTY DESCRIPTION  
RIVERTOWN VALLEY NO. 7

THAT PART OF THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING ON THE NORTH-SOUTH ONE-QUARTER LINE OF SAID SECTION AND PART OF THE WEST LINE OF RIVER TOWN VALLEY NO. 1 (AS RECORDED IN LIBER 116 OF PLATS, PAGES 34 THRU 39, KENT COUNTY RECORDS) AT A POINT BEING SOUTH 00°41'53" EAST 659.64 FEET FROM THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION; THENCE SOUTH 00°41'53" WEST 590.93 FEET ALONG THE SOUTH LINE OF SAID SECTION; THENCE NORTH 89°04'08" WEST 192.80 FEET; THENCE NORTH 01°04'18" EAST 101.48 FEET; THENCE NORTH 88°54'47" WEST 25.30 FEET; THENCE NORTH 83°02'40" EAST 130.00 FEET; THENCE NORTH 01°04'18" EAST 33.54 FEET; THENCE NORTH 21°56'38" WEST 160.86 FEET; THENCE NORTH 00°55'52" WEST 117.31 FEET; THENCE NORTH 89°04'08" WEST 85.39 FEET; THENCE NORTH 30°48'17" WEST 10.88 FEET; THENCE NORTH 00°50'52" EAST 200.10 FEET; THENCE NORTH 89°04'08" WEST 17.70 FEET; THENCE SOUTHWESTERLY 199.79 FEET ON A 270.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS SOUTH 89°14'00" WEST 195.26 FEET; THENCE SOUTHERLY AND EASTERLY 241.77 FEET ON A 330.00 FOOT RADIUS CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS SOUTH 69°31'25" WEST 236.40 FEET; THENCE NORTH 89°21'18" WEST 407.38 FEET TO THE PLACE OF BEGINNING.

14.6456 ACRES

PROPERTY DESCRIPTION  
RIVERTOWN VALLEY NO. 8

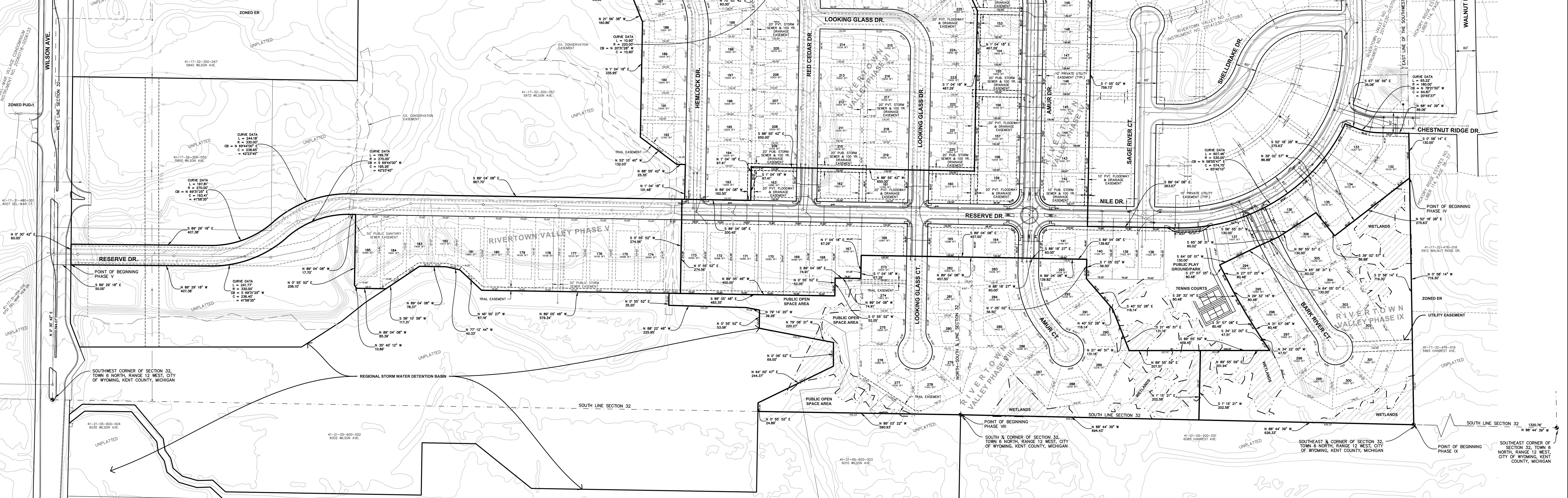
THAT PART OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER AND PART OF THE SOUTHWEST ONE-QUARTER OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT THE SOUTHWEST CORNER OF SAID SECTION 32; THENCE NORTH 00°58'00" WEST 719.30 FEET; THENCE NORTH 88°44'39" WEST 1320.76 FEET; THENCE NORTH 00°58'00" WEST 719.30 FEET; THENCE NORTH 29°21'28" WEST 86.68 FEET; THENCE SOUTH 56°50'51" WEST 130.00 FEET; THENCE SOUTH 34°22'00" EAST 47.51 FEET; THENCE SOUTH 89°50'50" WEST 409.45 FEET; THENCE SOUTH 27°02'22" EAST 80.48 FEET; THENCE SOUTH 29°21'28" WEST 116.14 FEET; THENCE NORTH 01°00'00" EAST 56.30 FEET; THENCE NORTH 89°04'06" WEST 139.82 FEET; THENCE NORTH 88°18'27" WEST 60.00 FEET; THENCE NORTH 89°04'06" WEST 427.50 FEET; THENCE SOUTH 01°04'18" WEST 67.29 FEET; THENCE NORTH 88°04'08" WEST 74.91 FEET; THENCE SOUTH 00°50'52" WEST 52.05 FEET; THENCE NORTH 89°04'08" WEST 450.00 FEET; THENCE NORTH 00°50'52" EAST 274.56 FEET; THENCE SOUTH 89°04'08" EAST 204.45 FEET; THENCE NORTH 01°04'18" EAST 97.41 FEET; THENCE SOUTH 89°04'08" EAST 650.00 FEET; THENCE NORTH 01°04'18" EAST 407.29 FEET; THENCE NORTH 24°33'59" WEST 150.94 FEET; THENCE NORTH 00°41'53" WEST 3.61 FEET ALONG THE NORTH-SOUTH ONE-QUARTER LINE OF SAID SECTION; THENCE SOUTH 88°18'27" EAST 156.69 FEET ALONG THE SOUTH LINE OF RIVERTOWN VALLEY I (AS RECORDED IN INSTRUMENT NO. 20050506-005372, KENT COUNTY RECORDS); THENCE SOUTH 78°38'37" EAST 74.80 FEET ALONG THE SOUTH LINE OF SAID RIVERTOWN VALLEY I; THENCE SOUTH 89°13'36" EAST 170.99 FEET ALONG THE SOUTH LINE OF SAID RIVERTOWN VALLEY I; THENCE SOUTH 01°00'00" WEST 239.13 FEET ALONG THE WEST LINE OF RIVERTOWN VALLEY II (AS RECORDED IN INSTRUMENT NO. 20141210-010703, KENT COUNTY RECORDS); THENCE SOUTH 89°04'08" EAST 263.56 FEET (RECORDED AS 263.56 FEET) ALONG THE SOUTH LINE OF NILE DRIVE (A 60.00 FOOT WIDE PUBLIC RIGHT-OF-WAY) AND THE SOUTH LINE OF SAID RIVER TOWN VALLEY NO. 3; THENCE NORTHEAST 607.46 FEET (RECORDED AS 607.57 FEET) ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF NILE DRIVE AND THE SOUTHWESTERLY LINE OF SAID RIVERTOWN VALLEY NO. 3 ON A 330.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 88°04'47" EAST 274.75 FEET (RECORDED AS NORTH 88°04'47" EAST 274.85 FEET); DELTA ANGLE BEING 85°04'21"; THENCE SOUTH 67°58'59" EAST 35.08 FEET ALONG THE SOUTH LINE OF CHESTNUT RIDGE DRIVE (A 60.00 FOOT WIDE PUBLIC RIGHT-OF-WAY) AND THE SOUTH LINE OF SAID RIVERTOWN VALLEY NO. 3; THENCE EAST 65.22 FEET ALONG SAID CHESTNUT RIDGE DRIVE AND SAID RIVERTOWN VALLEY NO. 3 ON A 180.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 78°12'51" EAST 84.87 FEET; DELTA ANGLE BEING 20°45'37"; THENCE SOUTH 88°44'39" EAST 89.06 FEET ALONG THE SOUTH LINE OF SAID CHESTNUT RIDGE DRIVE AND SAID RIVERTOWN VALLEY NO. 3; THENCE SOUTH 00°58'14" EAST 130.00 FEET (RECORDED AS SOUTH 00°58'00" EAST) ALONG THE WEST LINE OF HICKORY RIDGE ESTATES NO. 3 (AS RECORDED IN LIBER 114 OF PLATS, PAGES 36 & 37, KENT COUNTY RECORDS) AND THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION TO THE PLACE OF BEGINNING.

10.7333 ACRES

PROPERTY DESCRIPTION  
RIVERTOWN VALLEY NO. 9

THAT PART OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING ON THE SOUTH LINE OF SAID SECTION 32 AT A POINT BEING NORTH 88°44'39" WEST 1320.76 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION; THENCE NORTH 00°58'00" WEST 719.30 FEET; THENCE NORTH 29°21'28" WEST 86.68 FEET; THENCE SOUTH 56°50'51" WEST 130.00 FEET; THENCE SOUTH 34°22'00" EAST 47.51 FEET; THENCE SOUTH 89°50'50" WEST 409.45 FEET; THENCE SOUTH 27°02'22" EAST 80.48 FEET; THENCE SOUTH 29°21'28" WEST 116.14 FEET; THENCE NORTH 01°00'00" EAST 56.30 FEET; THENCE NORTH 89°04'06" WEST 139.82 FEET; THENCE NORTH 88°18'27" WEST 60.00 FEET; THENCE NORTH 89°04'06" WEST 427.50 FEET; THENCE SOUTH 01°04'18" WEST 67.29 FEET; THENCE NORTH 88°04'08" WEST 74.91 FEET; THENCE SOUTH 00°50'52" WEST 52.05 FEET; THENCE NORTH 89°04'08" WEST 450.00 FEET; THENCE NORTH 00°50'52" EAST 274.56 FEET; THENCE SOUTH 89°04'08" EAST 204.45 FEET; THENCE NORTH 01°04'18" EAST 97.41 FEET; THENCE SOUTH 89°04'08" EAST 650.00 FEET; THENCE NORTH 01°04'18" EAST 407.29 FEET; THENCE NORTH 24°33'59" WEST 150.94 FEET; THENCE NORTH 00°41'53" WEST 3.61 FEET ALONG THE NORTH-SOUTH ONE-QUARTER LINE OF SAID SECTION; THENCE SOUTH 88°18'27" EAST 156.69 FEET ALONG THE SOUTH LINE OF RIVERTOWN VALLEY I (AS RECORDED IN INSTRUMENT NO. 20050506-005372, KENT COUNTY RECORDS); THENCE SOUTH 78°38'37" EAST 74.80 FEET ALONG THE SOUTH LINE OF SAID RIVERTOWN VALLEY I; THENCE SOUTH 89°13'36" EAST 170.99 FEET ALONG THE SOUTH LINE OF SAID RIVERTOWN VALLEY I; THENCE SOUTH 01°00'00" WEST 239.13 FEET ALONG THE WEST LINE OF RIVERTOWN VALLEY II (AS RECORDED IN INSTRUMENT NO. 20141210-010703, KENT COUNTY RECORDS); THENCE SOUTH 89°04'08" EAST 263.56 FEET (RECORDED AS 263.56 FEET) ALONG THE SOUTH LINE OF NILE DRIVE (A 60.00 FOOT WIDE PUBLIC RIGHT-OF-WAY) AND THE SOUTH LINE OF SAID RIVER TOWN VALLEY NO. 3; THENCE NORTHEAST 607.46 FEET (RECORDED AS 607.57 FEET) ALONG THE SOUTHWESTERLY RIGHT-OF-WAY LINE OF NILE DRIVE AND THE SOUTHWESTERLY LINE OF SAID RIVERTOWN VALLEY NO. 3 ON A 330.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 88°04'47" EAST 274.75 FEET (RECORDED AS NORTH 88°04'47" EAST 274.85 FEET); DELTA ANGLE BEING 85°04'21"; THENCE SOUTH 67°58'59" EAST 35.08 FEET ALONG THE SOUTH LINE OF CHESTNUT RIDGE DRIVE (A 60.00 FOOT WIDE PUBLIC RIGHT-OF-WAY) AND THE SOUTH LINE OF SAID RIVERTOWN VALLEY NO. 3; THENCE EAST 65.22 FEET ALONG SAID CHESTNUT RIDGE DRIVE AND SAID RIVERTOWN VALLEY NO. 3 ON A 180.00 FOOT RADIUS CURVE TO THE LEFT, THE CHORD OF WHICH BEARS NORTH 78°12'51" EAST 84.87 FEET; DELTA ANGLE BEING 20°45'37"; THENCE SOUTH 88°44'39" EAST 89.06 FEET ALONG THE SOUTH LINE OF SAID CHESTNUT RIDGE DRIVE AND SAID RIVERTOWN VALLEY NO. 3; THENCE SOUTH 00°58'14" EAST 130.00 FEET (RECORDED AS SOUTH 00°58'00" EAST) ALONG THE WEST LINE OF HICKORY RIDGE ESTATES NO. 3 (AS RECORDED IN LIBER 114 OF PLATS, PAGES 36 & 37, KENT COUNTY RECORDS) AND THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION TO THE PLACE OF BEGINNING.

7.2672 ACRES



**ELEVATION 775.81**  
NORTHEAST CORNER OF A 1.5'-3.0" BOTTOM CONC STEP (0.6' ABOVE WALK), LOCATED ON THE EAST SIDE OF HOUSE #3599 YUKON DR.

**ELEVATION 686.58**  
SOUTHWEST CORNER OF A 1'x4" BOTTOM CONC STEP (0.6' ABOVE WALK), LOCATED ON THE EAST SIDE OF HOUSE #3683 SAGE RIVER CT.

**ELEVATION 686.36**  
NORTHEAST BOLT (UNDER "A" OF "USA") ON TOP FLANGE TO FIRE HYDRANT, LOCATED AT THE NORTHEAST CORNER OF NILE DR. & SAGE RIVER CT.

**UTILITY LEGEND**

CP#4 M&B RED CAP N 8206.9210 E 8578.8020 ELEV 687.09	CP#412 CONC MON N 8720.2510 E 7629.2110 ELEV 705.46	CP#416 RED CAP N 7957.2320 E 7782.4920 ELEV 683.60	CP#418 RED CAP N 8605.3450 E 7971.5570 ELEV 707.32
CP#3 M&B RED CAP N 8239.3170 E 8303.0780 ELEV 685.41	CP#415 RED CAP N 7432.8290 E 7642.0610 ELEV 681.49	CP#417 M&B RED CAP N 8534.6460 E 7577.7730 ELEV 700.35	CP#430 M&B RED CAP N 8961.4260 E 7495.9740 ELEV 715.70

**GENERAL NOTES:**

- THIS SITE WILL BE PLATTED PUD SUBDIVISION.
- THIS DEVELOPMENT WILL BE SERVICED BY PUBLIC UTILITIES: SANITARY SEWER, WATER MAIN, STORM SEWER, BURIED ELECTRIC, TELEPHONE, CABLE TELEVISION AND NATURAL GAS.
- A STORM WATER SYSTEM WILL BE DESIGNED PER WYOMING CITY ORDINANCE, SECTIONS 86-351 THROUGH 86-436.
- THE STREETS WILL BE PUBLIC UTILITIES BUILT TO THE STANDARDS OF THE CITY OF WYOMING.
- A SIGN FOR THE PLAT WILL BE INSTALLED ON LOT 185 PER CITY OF WYOMING SIGN ORDINANCE.
- SIDEWALKS WILL BE BUILT PER CITY OF WYOMING STANDARDS.
- STREET LIGHTS WILL BE INSTALLED PER CITY OF WYOMING STANDARDS.
- TENNIS COURTS AND CONNECTING PATH SHALL BE BUILT AS PART OF PHASE IV CONSTRUCTION.

**NOTES:**

- THIS SITE WILL BE PLATTED PUD SUBDIVISION.
- THIS DEVELOPMENT WILL BE SERVICED BY PUBLIC UTILITIES: SANITARY SEWER, WATER MAIN, STORM SEWER, BURIED ELECTRIC, TELEPHONE, CABLE TELEVISION AND NATURAL GAS.
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- STREET LIGHTS WILL BE INSTALLED PER CITY OF WYOMING STANDARDS.
- TENNIS COURTS AND CONNECTING PATH SHALL BE BUILT AS PART OF PHASE IV CONSTRUCTION.

unanimously.

Motion by Hegyi, supported by Weller, to remove the Site Plan motion from the table.

A vote on the motion carried 8 – 1, with Bueche opposed.

AGENDA ITEM NO. 2

**Request for Preliminary Plat – Final Approval for The Reserve Phase 4. This property is located at Wilson Avenue and 56<sup>th</sup> Street. (Section 32) (The Granger Group)**

Hofert described the location, existing land use and current zoning around the area. This request is for Phase Four of a larger six phase project. This phase includes a large section of Reserve Drive and the construction of tennis courts.

The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation and street layout, with preliminary engineering. Preliminary Plat- Tentative Approval was approved by Planning Commission on August 30, 2018 and City Council on September 4, 2018.

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. Upon full approval, construction may commence. The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

Specific Plat Information:

This plat includes six residential subdivisions totaling 185 lots, in conformance with the rezoning's approved Overall Development Plan. All lots meet the R-1 Residential District standards of a minimum 10,000 sq. ft. This approval is for Phase Four only.

Comments for Planning Commission:

Staff had the following comments:

1. Include construction of path connecting Tennis Courts and parking in Phase IV.
2. Addressing of streets shall be based on street directional E/W and N/S.
3. Provide fire hydrants per City requirements.

Conformance with the City of Wyoming Sustainability Principles:

Hofert highlighted how the proposal conforms to the City of Wyoming Sustainability Principles. The proposed subdivision will provide quality housing opportunities for residents in Wyoming. The construction of the plat, and the subsequent construction of the homes, will provide

significant employment. These factors will contribute to the economic strength and social equity of the City. Overall, the proposed Reserve at Rivertown subdivision conforms with the City of Wyoming Sustainability Principles.

Planning Commission Action:

The Development Review Team suggested the Planning Commission grant Preliminary Plat-Final Approval for The Reserve at Rivertown Phase IV and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System and conditions 1 - 3 listed in the comments.

Motion by Weller, supported by Arnoys, to grant Preliminary Plat – Final Approval for The Reserves at Rivertown Phase IV and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System and conditions 1-3 listed in the comments. Discussion followed.

Bueche asked if the streets were 60 feet in width. Engineer Justin Longstreth of Moore & Bruggink responded affirmatively. Goodheart asked if they have Drain Commission and County building approvals. The engineer responded affirmatively.

Hegy asked if the staff comments were actually conditions of approval. Hofert replied affirmatively.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 3

Request for Final Plat Approval for Reservoir Ridge. This property is located at 3723 56<sup>th</sup> Street SW. (Section 32) (DPW, LLC)

Hofert described the location, existing land use and current zoning around the area. The petitioner proposes 7 lots on 14.9 acres. The minimum lot size within subdivisions in this ER Estate Residential district is 10,000 sq. ft. The smallest lot proposed is 28,300 sq. ft., with five lots exceeding 1.3 acres. The existing home on the parcel will be retained on Lot 1. This development will connect to the Mills Ridge subdivision to the east with a simple cul-de-sac extension that will serve five lots. Two lots will obtain access directly from 56th Street.

The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation and street layout, with preliminary engineering. Preliminary Plat- Tentative Approval was approved by Planning Commission on June 20, 2017 and City Council on July 17, 2017.

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. Preliminary Plat- Final Approval was approved by Planning

THESE MINUTES ARE SUBJECT TO FORMAL APPROVAL BY THE WYOMING PLANNING COMMISSION AT ITS REGULAR MEETING OF SEPTEMBER 18, 2018

**PLANNING COMMISSION**

**SPECIAL MEETING MINUTES OF AUGUST 30, 2018**

CITY COUNCIL CHAMBERS  
CITY OF WYOMING, MICHIGAN

MEMBERS PRESENT: Arnoys, Bueche, DeLange, Goodheart, Hegyi, Micele, Spencer, Weller

MEMBERS ABSENT: Smart

STAFF PRESENT: Smith, City Attorney  
Lucar, Planning & Development Dept.  
Henckel, Engineering Dept.

Chair Spencer called the meeting to order at 7:00 PM.

Motion by Hegyi, supported by Micele, to excuse Smart. Motion carried unanimously.

APPROVAL OF MINUTES

Motion by Hegyi, supported by DeLange, to amend the minutes of August 21, 2018 to include Russ Henckel of the City Engineering Department as Staff Present. Motion carried unanimously.

APPROVAL OF AGENDA

The agenda was approved as presented.

PUBLIC COMMENT ON NON-PUBLIC HEARING AGENDA ITEMS

Larry Kuipers, 3770 – 56<sup>th</sup> St. SW, noted the Granger development will be south of his property. He was concerned with the number of rentals proposed.

Neva Warsen, 4149 Del-Mar Village Drive, thought the situation with the Granger proposal has gone on long enough. It has now become very one-sided because of the lawsuit. Transparency is also an issue because the neighbors received the plan that afternoon before the meeting. She hoped in the settlement that the number of rentals would be decreased, with an even ratio of single family homes and rentals.

AGENDA ITEM NO. 1

Request for Preliminary Plat – Tentative Approval for the Rivertown Valley Plat (aka, The Reserves at Rivertown) Phases 1-6. The properties are generally located at the southeast corner of Wilson Avenue and 56<sup>th</sup> Street. (Section 32) (The Granger Group) (Postponed from August 21, 2018)

City Attorney Scott Smith noted the request for Preliminary Plat-Tentative Approval for this plat was initially considered by the Planning Commission on August 15, 2017. The matter was tabled at that time. On August 21, 2018, the item was removed from the table by unanimous consent of the Commission. At that meeting the Planning Commission, by unanimous consent, motion by Hegyi, supported by Arnoys, postponed the request to a special meeting to be held on August 30, 2018. The minutes of the August 15, 2017 and August 21, 2018 meetings were provided for further information.

City Attorney Smith reviewed the process for the platting of property, which is a three-step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes and orientation and street layout. This approval is valid for one year. The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. Upon full approval, construction may commence. The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

Staff, including the City Attorney, City Engineer, Registered Building Official, Fire Marshall, Director of Community Services, and representatives of the Assessing Department, has reviewed the updated plat submittal received by the City on August 27, 2018. The standards of Division 2. Preliminary Plat-Tentative Approval of the Code of the City of Wyoming are applicable to this review, these being that the plat include:

- (1) Proposed name of subdivision.
- (2) Legal description of the land to be platted, its area in acres and the name of the city and county.
- (3) Names, addresses and telephone numbers of the proprietor, the planner and designer, engineer or surveyor who designed the subdivision layout.
- (4) The names of abutting subdivisions, layout of streets, indicating street names, right-of-way widths and connections with adjoining platted streets and locations of alleys, easements and public walkways and lot layouts.
- (5) A location map or vicinity sketch showing the relationship of the proposed plat to the surrounding area.
- (6) Existing land use and existing zoning of the proposed subdivision and the abutting tracts,

- including that of any abutting owners.
- (7) Drawing at scale of 100 feet to one inch or larger.
  - (8) Date, cardinal points and north arrow.
  - (9) A map of the entire area scheduled for development, including future streets if the proposed plat is a portion of a larger holding intended for subsequent development.
  - (10) Copies of any proposed covenants and deed restrictions, or a statement in writing that none are proposed.
  - (11) Layout, number and dimension of lots, including front building setback lines.
  - (12) Land intended to be dedicated or set aside for public use or for the common use of property owners in the subdivision showing location, width and purpose.
  - (13) The exact location of all floodplain area and regulated wetlands area.
  - (14) Location of any existing and proposed sanitary sewers, water mains, storm drains and other underground facilities within or adjacent to the proposed subdivision, including the location and dimensions of proposed street systems and easements therefore.
  - (15) Contours at two-foot intervals.
  - (16) A site report, if the proposed subdivision is not to be served by public water and sewer systems, as described in the rules of the state department of public health.
  - (17) A statement indicating the proposed use to which the subdivision will be put, along with a description of any type of residential buildings and number of dwelling units contemplated or the type of business or industry so as to reveal the effect of development on traffic, fire hazards or population density.

Having reviewed the plat per these standards, Staff recommended the Planning Commission recommend to the City Council Preliminary Plat Tentative Approval of the Rivertown Valley Plat Phases IV – IX (sometimes referred to as “The Reserve at Rivertown” and previously referred to as “The Reserve Phases 1-6”), subject to the following conditions:

1. The conditions in section 105 of the Land Division Act, 1967 PA 288, MCL 560.105.
2. City Council approval of Ordinance No. 14-18 rezoning the property to the PUD-1 zoning district.
3. Dismissal of the lawsuit of *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, pending in the Kent County Circuit Court in accordance

- with a final order approved by the City Council, and the specific agreement of the parties.
4. Entry of an agreement with the City for construction of all required improvements as required by subsection 74-64(5) of the Code of Ordinances, City of Wyoming, Michigan.
  5. A deed restriction or covenant requiring owners of each lot in the plat to be a member of and obligated to pay dues and special assessments imposed by a homeowners' association to be formed by the developer prior to the sale of any lot in any phase of the plat, as required by the (i) conditions imposed on the Planning Commission's approval on August 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD, also known as "The Reserve at Rivertown," (ii) the terms of the court order dismissing the lawsuit referred to in condition 3, and (iii) by Ordinance No. 14-18 rezoning the property included in the plat. The draft of the proposed "Master Declaration of Covenants, Conditions, and Restrictions – The Reserve at Rivertown" submitted to the City Attorney by e-mail on Tuesday, August 28, 2018, meets this requirement.
  6. Compliance with all conditions of the Planning Commission's approval on August 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as "The Reserve at Rivertown" as they relate to the plat, including, without limitation, amenities to be constructed within or available to occupants of the plat, or any improvements comprising or within the plat.
  7. A drainage plan that (i) complies with City ordinance requirements, (ii) shows any needed public and private easements, and (iii) establishes minimum floor/building opening elevations where needed, shall be submitted before Preliminary Plat Final Approval.
  8. The rear yard setback for Lot 133 must comply with the 35-foot rear yard setback.
  9. The driveways for Lots 133, 136, 137, 141, 142, 159, 160, 161, 162, 163, 164, 165, 166, and 193 shall not connect to Nile or Reserve Drive, but shall connect to the other streets on which those lots front.

City Attorney Smith highlighted how the proposal conforms to the City of Wyoming Sustainability Principles. The proposed subdivisions will provide quality housing opportunities for residents in Wyoming. The construction of the plat, and the subsequent construction of the homes, will provide significant employment. These factors will contribute to the economic strength and social equity of the City. The overall development of the plats preserve significant open areas and any wetland impacts will be mitigated. The proposed Reserves subdivisions conform to the City of Wyoming Sustainability Principles.

City Attorney Smith added, depending upon the City Council's action regarding the Granger development on September 4<sup>th</sup>, that the petitioner may apply for Preliminary Plat – Final Approval in time for the September Planning Commission meeting.

Planning Commission Action:

The Development Review Team recommended the Planning Commission recommend to the City Council Preliminary Plat Tentative Approval of the Rivertown Valley Plat Phases IV – IX (sometimes referred to as “The Reserve at Rivertown” and previously referred to as “The Reserve Phases 1-6”), subject to conditions 1 – 9 as recommended by staff. Discussion followed.

DeLange questioned why condition 3 regarding dismissal of the lawsuit was included as a Planning Commission condition of approval when this is a Council decision. Attorney Smith replied the City is trying to tie all the actions related to the Granger development together, so this is the reason for the cross-referencing.

Bueche referenced on page 10 of the Master Declaration of Covenants, Conditions, and Restrictions for The Reserve at Rivertown, Article IV, Section 1(iv) and (v), there are blanks that need to be filled in. Attorney Smith indicated they will be finalized at a later time. Goodheart asked if the draft Covenants were reviewed thoroughly. Attorney Smith responded affirmatively and said they look fine. Goodheart pointed out the exhibits were not yet included. Attorney Smith noted they will be included and reviewed as a final document.

Chair Spencer asked Attorney Smith to explain how the homeowners association fees will be assessed. He noted Phase I already has a homeowners association. Phases II and III did not have a homeowners association. Granger can offer Phase II and III residents the opportunity to be part of the homeowners association, but they cannot require it. Future phases will be required to be a member of the homeowners association. The City believes the homeowners association fees will be split equitably between the single family and multiple family as stated in the proposal. Also, the amenities must be maintained in a satisfactory fashion. Hegyi asked if there would be separate HOA’s since Phase I already has one. Attorney Smith responded affirmatively. The developer indicated there will be a cross agreement between the old and new HOA’s regarding the use of the amenities. Attorney Smith said the estimate for the HOA fees is very minimal. The landscaping and maintenance costs for the common areas will have to be decided upon by the two HOA’s.

DeLange asked why the Covenants have increased from a few pages to 17 pages within a week’s time. Attorney Smith noted the settlement agreement conditions include the HOA covenants. All the approvals need to tie together with the settlement agreement.

Arnoys asked why the approval does not address the commercial zoning on 56<sup>th</sup> and Wilson. Attorney Smith replied the only proposal before them is to address the single family residential plat phases.

Goodheart asked if the playground/park area will be built in phase 4 of the plat. Attorney Smith said the tennis courts and connection to Reserve Drive will be constructed during phase 5. The developer confirmed the playground will also be built during phase 5. Attorney Smith affirmed the developer would like to move forward with phases 4 and 5 as soon as possible. Goodheart

pointed out the need for bonding for the improvements. Henckel confirmed that is the way it has been handled in the past; the developer has to bond for any public improvements at the final plat stage.

Motion by DeLange, supported by Bueche, to recommend to the City Council Preliminary Plat Tentative Approval of the Rivertown Valley Plat Phases IV – IX (sometimes referred to as “The Reserve at Rivertown” and previously referred to as “The Reserve Phases 1-6”), subject to conditions 1 – 9 as recommended by staff. Discussion followed.

Goodheart noted the Preliminary Plat Tentative Approval is good for one year. The Preliminary Plat Final Approval is good for two years. He asked if the developer’s intent was to next request Preliminary Plat Final Approval for only phase 4. The developer responded affirmatively. Phase 5 will be requested shortly thereafter.

Hegyí questioned the numbering for the phases of the plat. They were once called phases 1 – 6 and are now called IV – IX. Attorney Smith replied the developer decided to follow the original numbering for the plat and go with IV - IX. There are still a total of six plat phases for the development.

A vote on the motion carried unanimously.

#### PUBLIC COMMENT

Neva Warsen, 4149 Del-Mar Village Drive, asked if this plat approval included dismissal of the Granger lawsuit. Attorney Smith replied the City Council is the only body that can approve the settlement agreement for the lawsuit, but the plat approval is conditioned upon the dismissal of the lawsuit. Ms. Warsen asked for an explanation of the names for the filing of the lawsuit “Granger Group LLC, et al”. Attorney Smith said it means Granger Group LLC and the other plaintiffs.

#### ADJOURNMENT

The meeting was adjourned at 7:40 P.M.

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William Hegyí, Secretary  
Wyoming Planning Commission

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Kimberly S. Lucar  
Wyoming Planning & Development Dept.

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO GRANT FINAL PLAT APPROVAL FOR THE PROPOSED  
RESERVOIR RIDGE

WHEREAS:

1. The City of Wyoming strives to provide quality housing throughout the community. The proposed subdivision will provide new residential lots to compliment this endeavor.
2. The proposed Reservoir Ridge subdivision will integrate with the adjoining residential subdivision.
3. The proposed subdivision complies with the City Land Use Plan 2020, Zoning Ordinance and Subdivision Ordinance.
4. The Planning Commission recommended approval of the proposed subdivision at their November 20, 2018 meeting.

NOW, THEREFORE, BE IT RESOLVED:

1. The Wyoming City Council does hereby grant Final Plat Approval for Reservoir Ridge subject to participation in the cost sharing for the Regional Storm Sewer System.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

November 28, 2018

Ms. Kelli A. VandenBerg  
City Clerk  
Wyoming, MI

Subject: Request to grant Final Plat Approval Reservoir Ridge. This property is located at 3723 56<sup>th</sup> Street SW. (Section 32) (DPW, LLC)

Recommendation: To grant Final Plat Approval.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on November 20, 2018. A motion was made by Hegyi, supported by Micele to grant Final Plat Approval for Reservoir Ridge and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System.

The motion passed unanimously. A detailed review of the request is available in the attached Planning Commission minutes. Following please find some background and other pertinent information.

The petitioner proposes 7 lots on 14.9 acres. This development will connect to the Mills Ridge subdivision to the east with a simple cul-de-sac extension that will serve five lots. Two lots will obtain access directly from 56th Street.

The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation and street layout, with preliminary engineering. Preliminary Plat- Tentative Approval was approved by Planning Commission on June 20, 2017 and City Council on July 17, 2017 (meeting minutes attached for reference).

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. Preliminary Plat- Final Approval was approved by Planning Commission on August 15, 2017 and City Council on September 5, 2017 (meeting minutes attached for reference). Upon full approval, construction may commence.

The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

**Jack A. Poll, Mayor**

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Hofert". The signature is fluid and cursive, with a long horizontal stroke extending to the right from the end of the name.

Nicole Hofert, City Planner  
Department of Community Services

Cc: Curtis Holt, City Manager  
Rebecca Rynbrandt, Director of Community Services





# OFFICE OF THE DRAIN COMMISSIONER

*Ken Yonker, Drain Commissioner*

November 14, 2018

Robert Goodheart, P.E.  
Pathfinder Engineering, Inc.  
2335 Byron Center Ave, SW  
Wyoming, MI 49519

**RE: Reservoir Ridge  
Section 32, T6N, R12W, City of Wyoming  
KCDC File No. 1913**

Dear Mr. Goodheart,

We have reviewed the construction plans and floodway calculations submitted on November 5, 2018 for Reservoir Ridge. With the City of Wyoming approval of the minimum increase in the impervious area directed to the Huizenga 1 regional district and the submittal of the floodway computations, the concerns of our office have been addressed. Construction approval is granted at this time.

If you have any questions, please contact the Drain Office.

Sincerely,

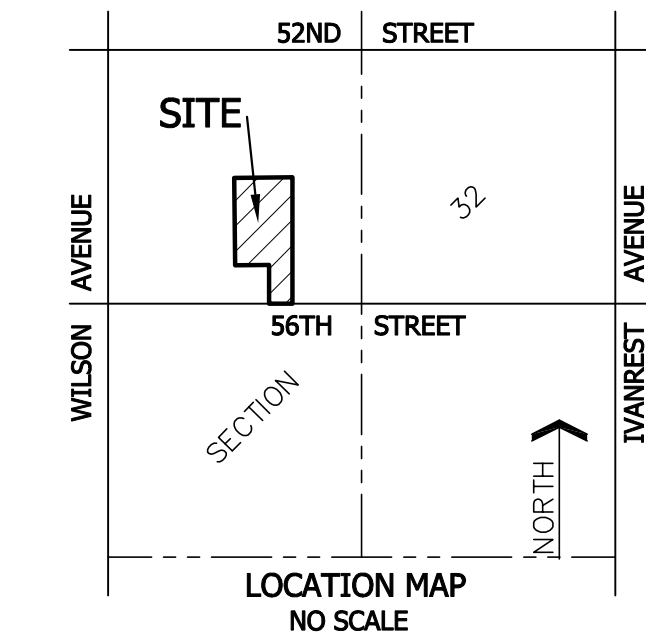
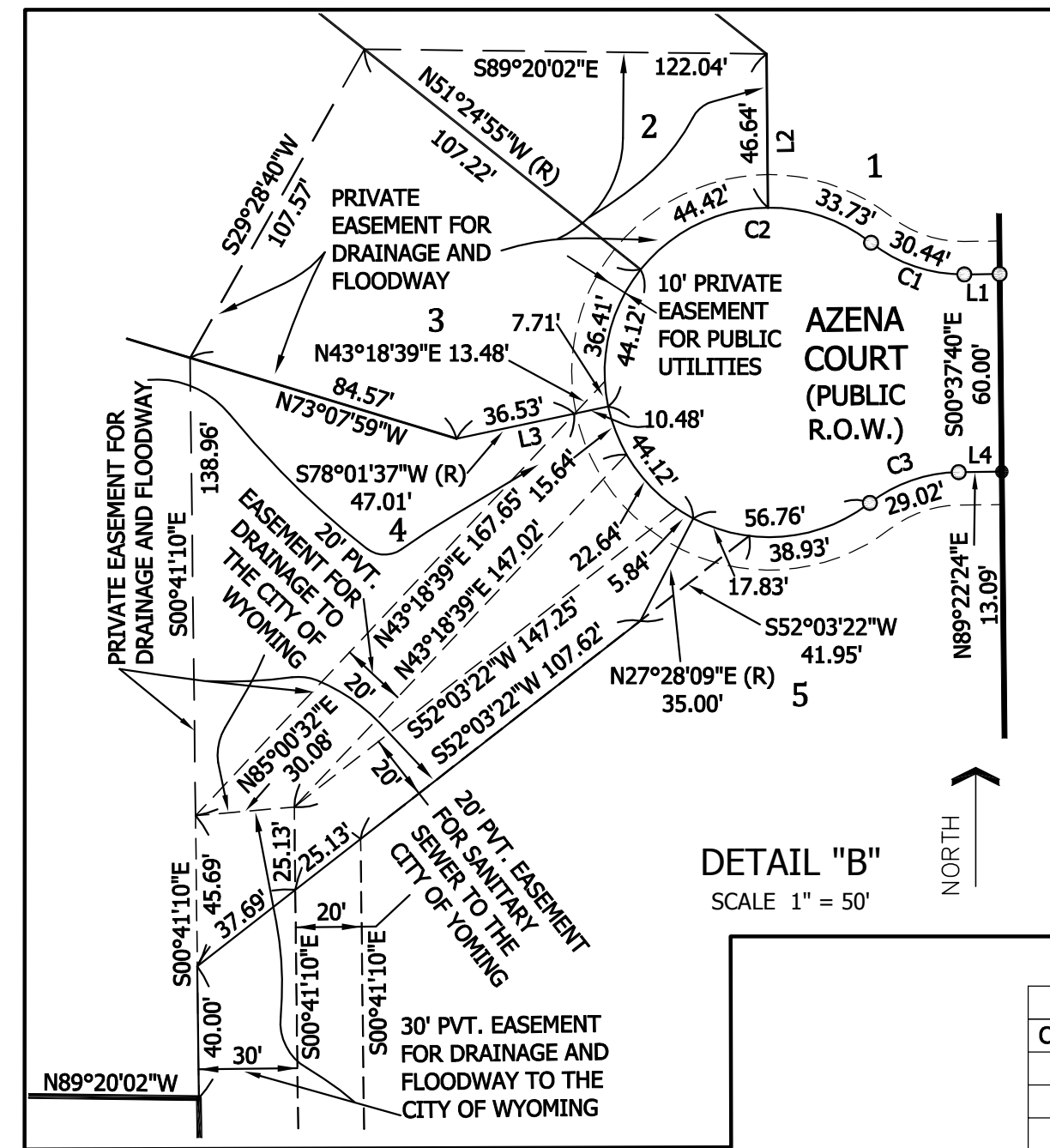
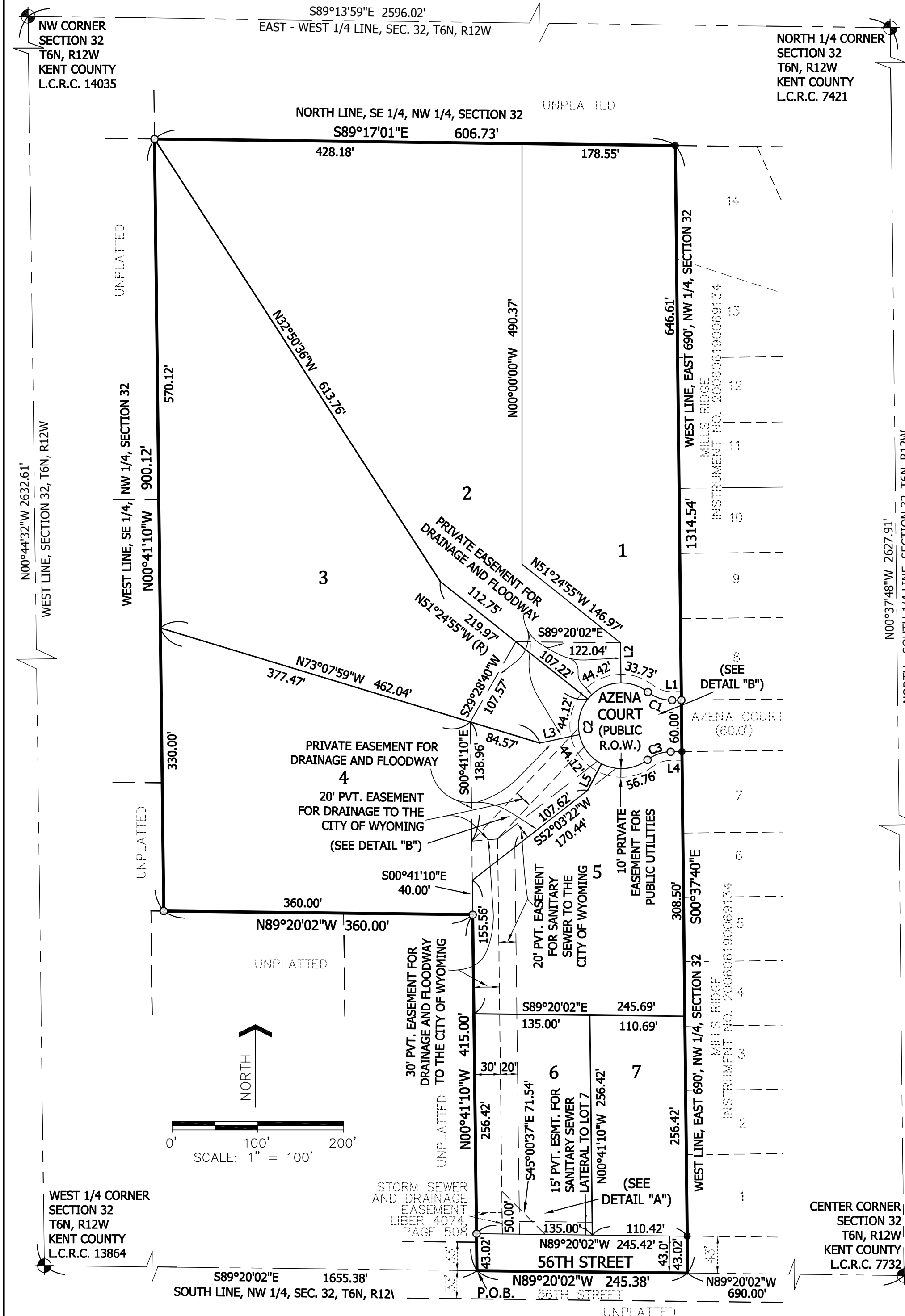
Angie E. Latvaitis  
Staff Engineer  
Office of the Kent County Drain Commissioner

cc. file  
Plat Board  
David Maas, DPWB, LLC, Developer  
Jeff Oonk, Engineer for City of Wyoming  
Tim Cochran, Planner for City of Wyoming

# RESERVOIR RIDGE

PART OF THE NORTHWEST 1/4 OF SECTION 32, T6N, R12W,  
CITY OF WYOMING, KENT COUNTY, MICHIGAN

SHEET 1 OF 2



**LINE TABLE**

LINE	BEARING	LENGTH
L1	S89°22'24"W	10.72'
L2	N00°30'49"W (R)	46.64'
L3	S78°01'37"W (R)	47.01'
L4	N89°22'24"E	13.09'
L5	N27°28'09"E (R)	35.00'

**CURVE TABLE**

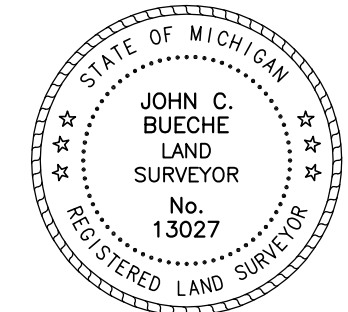
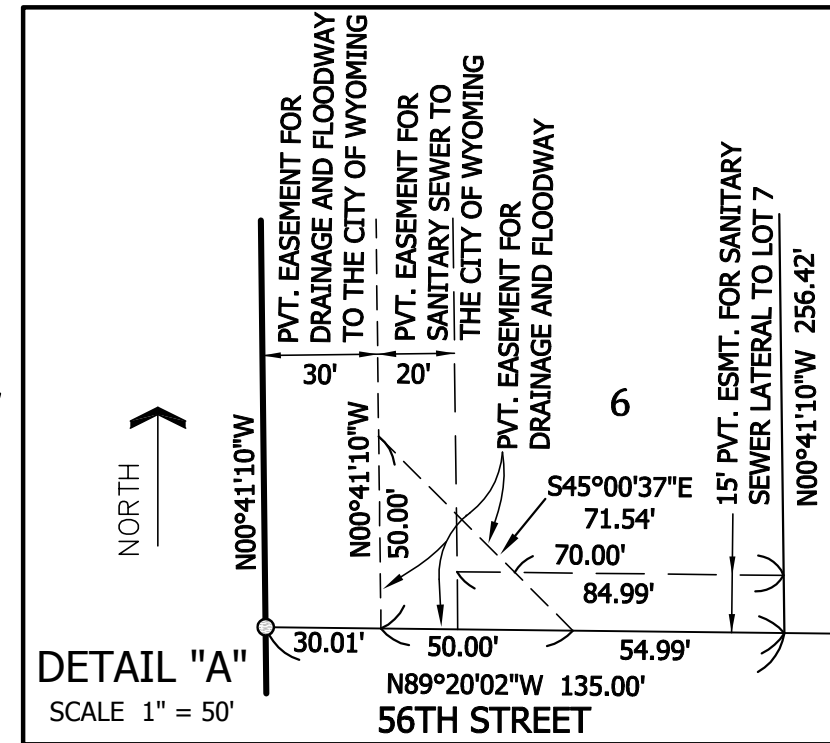
CURVE	LENGTH	RADIUS	CENTRAL ANGLE	CHORD BEARING	CHORD
C1	30.44'	45.00'	38°45'41"	N71°14'50"W	29.86'
C2	223.15'	50.00'	255°42'32"	S00°16'39"W	78.96'
C3	29.02'	45.00'	36°57'01"	N70°53'54"E	28.52'

**LEGEND**

ALL DIMENSIONS ARE IN FEET.  
CURVILINEAR MEASUREMENTS ARE IN ARC MEASUREMENTS.  
MONUMENTS CONSISTING OF 1/2" DIAMETER SOLID STEEL BARS, ENCASED IN CONCRETE, 4" IN DIAMETER AND 36" IN LENGTH HAVE BEEN PLACED AT ALL POINTS MARKED (o).  
MONUMENTS CONSISTING OF 1/2" DIAMETER SOLID STEEL BARS, ENCASED IN CONCRETE, 4" IN DIAMETER FOUND AT ALL POINTS MARKED (•).  
ALL LOT CORNERS ARE MARKED BY 1/2" DIAMETER SOLID STEEL BARS 18" IN LENGTH.  
PLAT BEARINGS ARE BASED ON MILLS RIDGE RECORDED IN INSTRUMENT NUMBER 200606190069134.  
R = RADIAL. LINES NOT MARKED ARE NOT RADIAL.

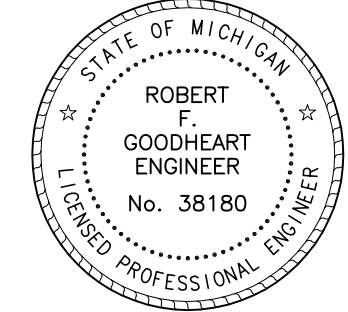
**SURVEYOR'S CERTIFICATE**

I, JOHN C. BUECHE, SURVEYOR, CERTIFY THAT I HAVE SURVEYED, DIVIDED AND MAPPED THE LAND SHOWN ON THIS PLAT DESCRIBED AS FOLLOWS; RESERVOIR RIDGE, PART OF THE SE 1/4, OF THE NW 1/4, SECTION 32, T6N, R12W, CITY OF WYOMING, KENT COUNTY, MICHIGAN DESCRIBED AS: COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 32; THENCE S89°20'02"E 1655.38 FEET ALONG THE SOUTH LINE OF THE NW 1/4 OF SAID SECTION 32 TO THE POINT OF BEGINNING; THENCE N00°41'10"W 415.00 FEET PARALLEL TO THE WEST LINE OF THE SE 1/4 OF THE NW 1/4 SAID SECTION 32; THENCE N89°20'02"W 360.00 FEET PARALLEL WITH SAID SOUTH LINE OF THE NW 1/4 OF SAID SECTION 32 TO SAID WEST LINE OF THE SE 1/4 OF THE NW 1/4 OF SAID SECTION 32; THENCE N00°41'10"W 900.12 FEET ALONG SAID WEST LINE OF SE 1/4 OF THE NW 1/4 OF SAID SECTION 32 TO THE NORTH LINE OF SE 1/4 OF THE NW 1/4 OF SAID SECTION 32; THENCE S89°17'01"E 606.73 FEET ALONG SAID NORTH LINE OF SE 1/4 OF THE NW 1/4 OF SAID SECTION 32 TO THE WEST LINE OF MILLS RIDGE RECORDED AS INSTRUMENT NUMBER 20060619-0069134; THENCE S00°37'40"E 1314.54 FEET ALONG SAID WEST LINE OF MILLS RIDGE TO SAID SOUTH LINE OF THE NW 1/4 OF SAID SECTION 32; THENCE N89°20'02"W 245.38 FEET ALONG SAID SOUTH LINE OF THE NW 1/4 OF SAID SECTION 32 TO THE POINT OF BEGINNING.  
CONTAINS 7 LOTS. CONTAINS 14.86 ACRES.  
THAT I HAVE MADE SUCH SURVEY, LAND DIVISION, AND PLAT BY THE DIRECTION OF THE OWNERS OF SUCH LAND.  
THAT SUCH PLAT IS A CORRECT REPRESENTATION OF ALL THE EXTERIOR BOUNDARIES OF THE LAND SURVEYED AND THE SUBDIVISION OF IT.  
THAT THE REQUIRED MONUMENTS AND LOT MARKERS HAVE BEEN LOCATED IN THE GROUND, OR THAT SURETY HAS BEEN DEPOSITED WITH THE MUNICIPALITY AS REQUIRED BY THE ACT.  
THAT THE ACCURACY OF SURVEY IS WITHIN THE LIMITS REQUIRED BY THE ACT.  
THAT THE BEARINGS SHOWN ON THE PLAT ARE EXPRESSED AS REQUIRED BY THE ACT AND AS EXPLAINED IN THE LEGEND.



PATHFINDER ENGINEERING, INC.  
2335 BYRON CENTER AVE. S.W.  
WYOMING, MICHIGAN 49519

BY JOHN C. BUECHE  
PROFESSIONAL SURVEYOR NO. 13027



PATHFINDER ENGINEERING, INC.  
2335 BYRON CENTER AVE. S.W.  
WYOMING, MICHIGAN 49519

BY ROBERT F. GOODHEART, PRESIDENT  
PROFESSIONAL ENGINEER NO. 38180

# RESERVOIR RIDGE

PART OF THE NORTHWEST 1/4 OF SECTION 32, T6N, R12W,  
CITY OF WYOMING, KENT COUNTY, MICHIGAN

SHEET 2 OF 2

**PROPRIETOR'S CERTIFICATE**

DPWB, LLC, 3698 8TH AVENUE, HUDSONVILLE, MI 49426, A LIMITED LIABILITY COMPANY DULY ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF MICHIGAN BY, DAVID J. MAAS, MEMBER, AS PROPRIETOR CERTIFY THAT I CAUSED THE LAND DESCRIBED IN THIS PLAT TO BE SURVEYED, DIVIDED, MAPPED AND DEDICATED AS REPRESENTED ON THIS PLAT AND THAT THE STREET IS FOR THE USE OF THE PUBLIC; THAT THE PUBLIC UTILITY EASEMENTS ARE PRIVATE EASEMENTS AND THAT ALL OTHER EASEMENTS ARE FOR THE USES SHOWN ON THE PLAT.

DPWB, LLC  
3698 8TH AVENUE  
HUDSONVILLE, MI 49426

STATE FILE NUMBER 802089921  
DATED 6-1-2017

BY: DAVID J. MAAS, MEMBER

**ACKNOWLEDGEMENT**

STATE OF MICHIGAN  
\_\_\_\_\_ COUNTY

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ BY \_\_\_\_\_

DPWB, L.L.C. A MICHIGAN LIMITED LIABILITY COMPANY, ON BEHALF OF THE LIMITED LIABILITY COMPANY

\_\_\_\_\_  
NOTARY PUBLIC, \_\_\_\_\_ COUNTY, MICHIGAN  
MY COMMISSION EXPIRES: \_\_\_\_\_

**PROPRIETOR'S CERTIFICATE**

WE WAYNE B. KINZIE AND PAULA J. KINZE, HUSBAND AND WIFE, 3723 56TH STREET, GRANDVILLE, MI 49418 AS PROPRIETORS CERTIFY THAT WE CAUSED THE LAND DESCRIBED IN THIS PLAT TO BE SURVEYED, DIVIDED, MAPPED, AND DEDICATED AS REPRESENTED ON THIS PLAT AND THAT THE STREET IS FOR THE USE OF THE PUBLIC; THAT THE PUBLIC UTILITY EASEMENTS ARE PRIVATE EASEMENTS AND THAT ALL OTHER EASEMENTS ARE FOR THE USES SHOWN ON THE PLAT.

BY: WAYNE B. KINZIE  
3723 56TH STREET,  
GRANDVILLE, MI 4941

BY: PAULA J. KINZIE  
3723 56TH STREET,  
GRANDVILLE, MI 4941

**ACKNOWLEDGEMENT**

STATE OF MICHIGAN  
\_\_\_\_\_ COUNTY

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME THIS \_\_\_\_\_ BY WAYNE B. KINZIE AND

PAULA J. KINZIE, HUSBAND AND WIFE.

\_\_\_\_\_  
NOTARY PUBLIC, \_\_\_\_\_ COUNTY, MICHIGAN  
MY COMMISSION EXPIRES: \_\_\_\_\_

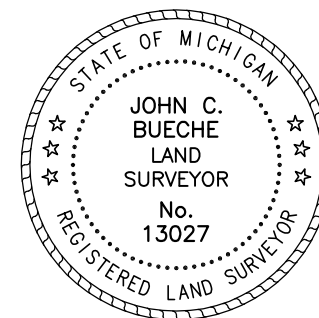
**SURVEYOR CERTIFICATION OF TRUE COPY**

I, JOHN C. BUECHE, SURVEYOR, CERTIFY: THAT PURSUANT TO SECTION 560.101 TO 560.293, THIS COPY IS A TRUE COPY OF THE FINAL PLAT OF RESERVOIR RIDGE, PART OF THE NORTHWEST 1/4 OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN; AND THAT THE FINAL PLAT IS SUBJECT TO THE APPROVAL OF EACH OF THE FOLLOWING AGENCIES (WHOSE APPROVAL IS REQUIRED UNDER SECTION 560.101 TO 560.293)

KEN YONKER, KENT COUNTY DRAIN COMMISSIONER  
KELLI VANDENBERG, WYOMING CITY OF CLERK  
JAMES R. SAALFELD, KENT COUNTY PLAT BOARD

DATE

BY: JOHN C. BUECHE  
PROFESSIONAL SURVEYOR NO. 13027



**COUNTY TREASURER'S CERTIFICATE**

THE RECORDS IN MY OFFICE SHOW NO UNPAID TAXES OR SPECIAL ASSESSMENTS FOR THE 5 YEARS PRECEDING \_\_\_\_\_, \_\_\_\_\_, INVOLVING THE LANDS INCLUDED IN THIS PLAT.

\_\_\_\_\_  
KENNETH D. PARRISH KENT COUNTY TREASURER

**COUNTY DRAIN COMMISSIONER'S CERTIFICATE**

APPROVED ON \_\_\_\_\_, \_\_\_\_\_, AS COMPLYING WITH 1967 PA 288, MCL 560.192 AND THE APPLICABLE RULES AND REGULATIONS PUBLISHED BY MY OFFICE IN THE COUNTY OF KENT.

\_\_\_\_\_  
KEN YONKER DATE  
KENT COUNTY DRAIN COMMISSIONER

**MUNICIPAL APPROVAL CERTIFICATE**

I CERTIFY THAT THIS PLAT WAS APPROVED BY THE CITY OF WYOMING BOARD AT A MEETING HELD \_\_\_\_\_, \_\_\_\_\_, AND WAS REVIEWED AND FOUND TO BE IN COMPLIANCE WITH 1967 PA 288, MCL 560.101 TO 560.293.

- A) THAT THE CITY DOES HAVE PROPER ADOPTED ZONING AND SUBDIVISION CONTROL ORDINANCES, AND WAIVES THE MINIMUM LOT SIZE REQUIREMENTS IN SECTION 148 (4) AND SECTION 186 OF ACT 288, P.A. 1967, AS AMENDED.
- B) THAT THIS PLAT IS SERVED PUBLIC WATER AND PUBLIC SEWER SYSTEMS AND THE SERVICES ARE READY FOR CONNECTION.
- C) THAT SURETY HAS BEEN POSTED FOR ONE YEAR TO INSURE THE PLACEMENT OF LOT CORNER IRONS AND MONUMENTS.

\_\_\_\_\_  
KELLI VANDENBERG WYOMING CITY CLERK DATE

**COUNTY PLAT BOARD CERTIFICATE**

THIS PLAT HAS BEEN REVIEWED AND IS APPROVED BY THE KENT COUNTY PLAT BOARD ON \_\_\_\_\_, \_\_\_\_\_, AS BEING IN COMPLIANCE WITH ALL OF THE PROVISIONS OF 1967 PA 288, MCL 560.101 TO 560.293, AND THE PLAT BOARD'S APPLICABLE RULES AND REGULATIONS.

\_\_\_\_\_  
JAMES R. SAALFELD BOARD OF COMMISSIONERS CHAIR

\_\_\_\_\_  
LISA POSTHUMUS LYONS COUNTY CLERK - REGISTER OF DEEDS

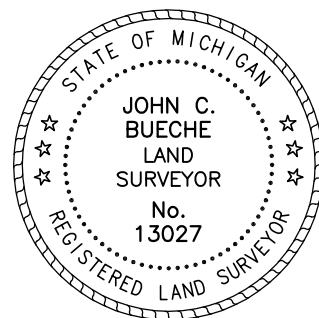
\_\_\_\_\_  
KENNETH D. PARRISH KENT COUNTY TREASURER

**RECORDING CERTIFICATE**

STATE OF MICHIGAN )  
KENT COUNTY )

THIS PLAT WAS RECEIVED FOR RECORD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_, AT \_\_\_\_\_ O'CLOCK \_\_.M., AND RECORDED IN INSTRUMENT NUMBER \_\_\_\_\_

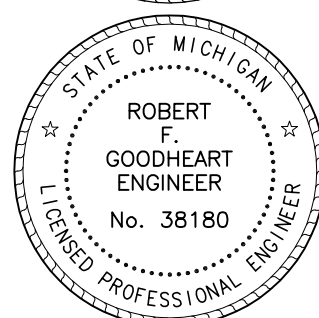
\_\_\_\_\_  
LISA POSTHUMUS LYONS COUNTY CLERK - REGISTER OF DEEDS



PATHFINDER ENGINEERING, INC.  
2335 BYRON CENTER AVE. S.W.  
WYOMING, MICHIGAN 49519

BY JOHN C. BUECHE  
PROFESSIONAL SURVEYOR NO. 13027

DATE



PATHFINDER ENGINEERING, INC.  
2335 BYRON CENTER AVE. S.W.  
WYOMING, MICHIGAN 49519

BY ROBERT F. GOODHEART, PRESIDENT  
PROFESSIONAL ENGINEER NO. 38180

DATE

significant employment. These factors will contribute to the economic strength and social equity of the City. Overall, the proposed Reserve at Rivertown subdivision conforms with the City of Wyoming Sustainability Principles.

Planning Commission Action:

The Development Review Team suggested the Planning Commission grant Preliminary Plat-Final Approval for The Reserve at Rivertown Phase IV and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System and conditions 1 - 3 listed in the comments.

Motion by Weller, supported by Arnoys, to grant Preliminary Plat – Final Approval for The Reserves at Rivertown Phase IV and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System and conditions 1-3 listed in the comments. Discussion followed.

Bueche asked if the streets were 60 feet in width. Engineer Justin Longstreth of Moore & Bruggink responded affirmatively. Goodheart asked if they have Drain Commission and County building approvals. The engineer responded affirmatively.

Hegy asked if the staff comments were actually conditions of approval. Hofert replied affirmatively.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 3

**Request for Final Plat Approval for Reservoir Ridge. This property is located at 3723 56<sup>th</sup> Street SW. (Section 32) (DPW, LLC)**

Hofert described the location, existing land use and current zoning around the area. The petitioner proposes 7 lots on 14.9 acres. The minimum lot size within subdivisions in this ER Estate Residential district is 10,000 sq. ft. The smallest lot proposed is 28,300 sq. ft., with five lots exceeding 1.3 acres. The existing home on the parcel will be retained on Lot 1. This development will connect to the Mills Ridge subdivision to the east with a simple cul-de-sac extension that will serve five lots. Two lots will obtain access directly from 56th Street.

The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation and street layout, with preliminary engineering. Preliminary Plat- Tentative Approval was approved by Planning Commission on June 20, 2017 and City Council on July 17, 2017.

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. Preliminary Plat- Final Approval was approved by Planning

Commission on August 15, 2017 and City Council on September 5, 2017. Upon full approval, construction may commence.

The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

Conformance with the City of Wyoming Sustainability Principles:

Hofert highlighted how the proposal conforms to the City of Wyoming Sustainability Principles. The proposed subdivision will provide quality housing opportunities for residents in Wyoming. The construction of the plat, and the subsequent construction of the homes, will provide significant employment. These factors will contribute to the economic strength and social equity of the City. Overall, the proposed Reservoir Ridge subdivision conforms with the City of Wyoming Sustainability Principles.

Planning Commission Action:

The Development Review Team suggested the Planning Commission grant Final Plat Approval for Reservoir Ridge and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System.

Goodheart and Bueche asked for an abstention from voting on this item because of their business interest in the project.

Motion by Hegyi, supported by Smart to grant an abstention from voting for Goodheart and Bueche because of their business interest in the project. Motion carried unanimously.

Motion by Hegyi, supported by Micele, to grant Final Plat Approval for Reservoir Ridge and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System. Motion carried unanimously.

AGENDA ITEM NO. 4

Request for Site Plan Approval for Abundant Life Church. This property is located at 4041 Byron Center Ave. (Section 21) (Abundant Life)

Hofert described the location, existing land use and current zoning around the area. The applicant is proposing an expansion of the existing church, increasing in size from 8,225 sq. ft. to 17,500 sq. ft. Seating capacity of the resulting sanctuary will be 450 persons. Parking will also be expanded to provide 150 spaces which would meet the ordinance requirements. Access to the site will remain as currently available with the primary access from Byron Center and a secondary access road from the north via Oaklane. The existing drive on Byron Center is proposed to be moved slightly north to directly align with Floyd Street on the opposite side of Byron Center.

THESE MINUTES ARE SUBJECT TO FORMAL APPROVAL BY THE WYOMING PLANNING COMMISSION AT ITS REGULAR MEETING OF JULY 18, 2017

**PLANNING COMMISSION**  
**MINUTES OF JUNE 20, 2017**  
CITY COUNCIL CHAMBERS  
CITY OF WYOMING, MICHIGAN

MEMBERS PRESENT: Arnoys, Bueche, DeLange, Goodheart, Hegyi, Smart, Spencer, Weller

MEMBERS ABSENT: Micele

STAFF PRESENT: Rynbrandt, Director of Community Services  
Cochran, City Planner  
Lucar, Planning & Development Dept.

Chair Spencer called the meeting to order at 7:00 PM.

Motion by Hegyi, supported by Arnoys, to excuse Micele and Smart (arrived after motion approved). Motion carried unanimously.

APPROVAL OF MINUTES

The minutes of May 16, 2017 were approved as written.

APPROVAL OF AGENDA

The agenda was approved as presented.

PUBLIC COMMENT ON NON-PUBLIC HEARING AGENDA ITEMS

There was no public comment.

AGENDA ITEM NO. 1

**Request for Preliminary Plat – Tentative Approval for Reservoir Ridge. The property is located at 3723 – 56<sup>th</sup> St SW. (Section 32) (DPW, LLC)**

Cochran described the location, existing land use and current zoning around the area. The petitioner proposes 7 lots on 14.9 acres. The minimum lot size within subdivisions in this ER Estate Residential district is 10,000 sq. ft. The smallest lot proposed is 28,300 sq. ft., with five lots exceeding 1.3 acres. The existing home on the parcel will be retained on Lot 1. This

development will connect to the Mills Ridge subdivision to the east with a simple cul-de-sac extension that will serve five lots. Two lots will obtain access directly from 56<sup>th</sup> Street.

Cochran referred to a handout which illustrated the platting process. The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative review which authorizes the basic lot sizes and orientation and street layout. The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

The developer will be required to participate in the cost sharing for the Regional Storm Sewer System at a later stage approval.

Cochran highlighted how the proposal conforms to the City of Wyoming Sustainability Principles. The proposed subdivision will provide high quality housing opportunities for residents in Wyoming. The construction of the plat, and the subsequent construction of the homes, will provide significant employment. These factors will contribute to the economic strength and social equity of the City. The proposed Greens of Wyoming plat conforms with the City of Wyoming Sustainability Principles.

Planning Commission Action:

The Development Review Team suggested the Planning Commission grant Preliminary Plat – Tentative Approval for Reservoir Ridge and recommended the same to the City Council.

Goodheart and Bueche asked for an abstention from voting on this item due to a business interest.

Motion by Hegyi, supported by Weller, to agree to the abstention from voting on this item for Goodheart and Bueche. Motion carried unanimously.

Chair Spencer opened the public hearing.

Joe Morello, 5505 Mills Ridge Drive, was concerned about the wildlife being disturbed and the trees being removed that border the back of his property. If possible, he would like the tree barrier between his back yard and this property to remain.

Chair Spencer closed the public hearing.

Robert Goodheart of Pathfinder Engineering, representing the petitioner, explained the sewer will be extended from 56<sup>th</sup> Street into the cul-de-sac. The regional storm water basins are already in place. They intend to save as many trees as possible.

Motion by Arnoys, supported by Hegyi, to grant Preliminary Plat – Tentative Approval for Reservoir Ridge and recommend the same to the City Council. Discussion followed.

Arnoys asked the minimum square footage of the homes to be built there. Petitioner Dave Maas, 3698 8<sup>th</sup> Ave, Hudsonville, replied 1,300 s.f. for single story ranch homes and 1,500 s.f. for a two-story home.

Weller thought the residential development would be a good fit for the area.

A vote on the motion carried 6 – 0, with Bueche and Goodheart abstaining.

AGENDA ITEM NO. 2

Request for Special Use Approval for Budget Truck Rental. The property is located at 2823 Clydon Avenue, SW. (Section 16) (I.E. Investments, LLC) (Includes Site Plan Approval)

Cochran described the location, existing land use and current zoning around the area. This property has sat vacant for several years. The petitioner proposes to establish a Budget Truck Rental facility on the site. The trucks would be stored in the rear parking area behind the building. Parking for customers would occur in front. The proposed truck rental use is allowable in this I-1 Light Industrial district by Special Approval from the Planning Commission.

The following standards for Special Use Approval shall be considered by the Planning Commission, as described within Section 90-507 (3) of the Zoning Ordinance:

- a. The possible substantial and adverse effect on neighboring property.

This property has sat vacant for several years. The proposed truck rental yard is relatively small, which will limit the number of trucks stored. There are numerous industrial businesses nearby that utilize trucks. The introduction of a viable use on this site will benefit neighboring properties.

- b. The consistency with the spirit, purpose and intent of this chapter.

The Special Use provisions of the ordinance allow the Planning Commission discretion in whether to establish land uses within a particular area of a zoning district. The site is in a large industrial district with extensive freight and trucking operations. The proposed truck rental will integrate with the surrounding industrial uses.

- c. The possible adverse effect upon traffic as related to the streets, churches, schools and any buildings within the immediate area.

The proposed truck rental business has direct access to Clydon Avenue, and is just south of 28<sup>th</sup> Street. No adverse traffic impacts are anticipated.

- d. The tendency of the proposed use to create any type of blight within the

Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

The petitioner has submitted draft deed restrictions, which would require homes to meet the City minimum area requirements. Two or three stall attached garages will also be required.

The developer is required to participate in the cost sharing for the Regional Storm Sewer System.

Cochran highlighted how the proposal conforms to the City of Wyoming Sustainability Principles. The proposed subdivision will provide quality housing opportunities for residents in Wyoming. The construction of the plat, and the subsequent construction of the homes, will provide significant employment. These factors will contribute to the economic strength and social equity of the City. Removal of the woodlot however, does not support environmental quality. Overall the proposed Greens of Wyoming subdivision conforms with the City of Wyoming Sustainability Principles.

Planning Commission Action:

Cochran affirmed that the Development Review Team suggested the Planning Commission grant Preliminary Plat – Final Approval for The Greens of Wyoming and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System.

Motion by Goodheart, supported by Weller, to grant Preliminary Plat – Final Approval for The Greens of Wyoming and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System. Discussion followed.

Bueche asked the petitioner if the plan for Final Plat Approval will show the north arrow in the correct direction. The petitioner responded affirmatively.

Goodheart asked City Engineer Jeff Oonk to explain the storm drainage for this site. Oonk explained the regional detention basin locations and the path of the storm drainage. Hegyi asked if the neighboring properties could experience more flooding than currently. Oonk replied the developer has provided a detailed drainage design which should correct water problems.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 5

**Request for Preliminary Plat – Final Approval for Reservoir Ridge Subdivision. The property is located at 3723 – 56<sup>th</sup> Street, SW. (Section 32) (Pathfinder Engineering)**

Cochran described the location, existing land use and current zoning around the area. The petitioner proposes 7 lots on 14.9 acres. The minimum lot size within subdivisions in this ER Estate Residential district is 10,000 sq. ft. The smallest lot proposed is 28,300 sq. ft., with five lots exceeding 1.3 acres. The existing home on the parcel will be retained on Lot 1. This

development will connect to the Mills Ridge subdivision to the east with a simple cul-de-sac extension that will serve five lots. Two lots will obtain access directly from 56<sup>th</sup> Street.

The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative review which authorizes the basic lot sizes and orientation and street layout. This approval was granted by the City Council on July 17, 2017. The second step is this proposed Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

The developer is required to participate in the cost sharing for the Regional Storm Sewer System.

Cochran highlighted how the proposal conforms to the City of Wyoming Sustainability Principles. The proposed subdivision will provide high quality housing opportunities for residents in Wyoming. The construction of the plat, and the subsequent construction of the homes, will provide significant employment. These factors will contribute to the economic strength and social equity of the City. The proposed Reservoir Ridge plat conforms with the City of Wyoming Sustainability Principles.

Planning Commission Action:

Cochran affirmed that the Development Review Team suggested the Planning Commission grant Preliminary Plat – Final Approval for Reservoir Ridge and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System.

Goodheart and Bueche asked to abstain from voting on this item due to a conflict of interest.

Motion by Weller, supported by DeLange, to grant an abstention from voting to Goodheart and Bueche due to a conflict of interest. Motion carried unanimously.

Motion by DeLange, supported by Weller, to grant Preliminary Plat – Final Approval for Reservoir Ridge and recommend the same to the City Council, subject to participation in the cost sharing for the Regional Storm Sewer System. Motion carried unanimously.

AGENDA ITEM NO. 6

Request for Site Plan Approval for 36th Street Townhouse. The property is located at 1035 – 36th Street, SW. (Section 14) (Dan Burrill)

Cochran described the location, existing land use and current zoning around the area. The petitioner proposes to construct a six unit townhouse development. The building would be one story, with each unit having one bedroom and being approximately 680 square feet. The townhouse building would face an apartment building to the west. The project is tight for this site which is 0.5 acres. The site was a home site, which was removed. The existing woodlot on the site consists mostly of undesirable trees, which would be removed entirely with the

RESOLUTION NO. \_\_\_\_\_

RESOLUTION TO ACCEPT A PROPOSAL FROM PREIN & NEWHOF  
TO PERFORM DESIGN ENGINEERING SERVICES FOR THE FIRST PHASE  
OF WYOMING'S THIRD TRANSMISSION PIPELINE  
AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended the City Council accept a proposal from Prein & Newhof to perform design engineering services for the first phase of Wyoming's third transmission pipeline at total estimated cost of \$1,231,000.
2. It is recommended the City Council accept the proposal.
3. Funds for the design engineering services will require the approval of the attached budget amendment.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Prein & Newhof to perform design engineering services for the first phase of Wyoming's third transmission pipeline in the total estimated amount of \$1,231,000.
2. The City Council does hereby authorize the Mayor and City Clerk to sign the contract.
3. The City Council does hereby approve the attached budget amendment.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried:     Yes  
                              No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 3, 2018.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Budget Amendment

Staff Report

Proposal

Standard City Professional Services Contract

Resolution No. \_\_\_\_\_



## STAFF REPORT

Date: November 19, 2018

Subject: Design Engineering for the Third Transmission Pipeline

From: William D. Dooley, Director of Public Works

Meeting Date: December 3, 2018

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### **Recommendation:**

It is recommended that the City Council authorize Prein & Newhof to perform design engineering for the first phase of Wyoming's third transmission pipeline at a cost of \$1,231,000.

### **Sustainability Criteria:**

Environmental Quality – The construction of a third transmission pipeline will help ensure a safe, reliable, and efficient water system.

Social Equity – A third transmission pipeline will provide the same high quality service to all wholesale and retail water customers without regard to income level or social economic status.

Economic Strength – Money invested in high-quality engineering design work reduces the likelihood of costly contract changes during the construction phase of the project.

### **Quality Service Impact:**

A third transmission pipeline will allow Wyoming to continue meeting the needs of its 230,000 wholesale and retail water customers.

### **Discussion:**

Wyoming uses the following large-diameter pipelines to move water from Lake Michigan to its Gezon Pumping Station -- from which the water is then distributed to approximately 75,000 customers located throughout the city. There are an additional 155,000 Kent and Ottawa County customers who also receive water from Wyoming by way of these same pipelines.

<u>Pipeline</u>	<u>Diameter</u>	<u>Length</u>	<u>Age</u>
Intake	66-inch	4,400-feet	52 years
Raw Water	60-inch	2,600-feet	52 years
Raw Water	66-inch	2,600-feet	6 years
Transmission	54-inch	26 miles	52 years
Transmission	48-inch	26 miles	26 years

In 2001, Wyoming hired Black & Veatch to evaluate its water treatment and transmission systems and recommend any improvements that were necessary in order to keep up with growing customer demand for water. Black & Veatch recommended four improvements.

1. Expansion of the water treatment plant -- increasing treatment capacity from 100 mgd to 120 mgd
2. Addition of a second raw water pipeline -- increasing conveyance capacity from 120 mgd to 150 mgd and providing needed redundancy
3. Addition of a second intake pipeline -- increasing conveyance capacity from 120 mgd to 200 mgd and providing needed redundancy
4. Addition of a booster pump station along the two transmission pipelines -- increasing conveyance capacity from 100 mgd to 150 mgd

The first two Black & Veatch recommendations were completed in 2010. The remaining two recommendations were put on hold due to financing limitations and an overall slowdown in water demand.

In 2016, Black & Veatch was asked to re-evaluate their 2001 recommendations for the water intake and transmission pipelines (items 3 and 4 above). As a result, Black & Veatch recommended that Wyoming pursue the following:

1. Build a second intake pipeline, as previously recommended.
2. Build a third transmission pipeline, in-lieu-of a booster pump station. Black & Veatch cited four reasons why a third pipeline was a better alternative than a booster pump station. First, a third pipeline has a lower long-term life-cycle cost than a booster pump station. Second, a third pipeline can be constructed in three phases, thereby allowing Wyoming to more closely match increased demand for capacity with associated increase in ability to finance. Third, three transmission pipelines provide much greater redundancy and flexibility than two pipelines -- particularly important when the two existing pipelines are 52 years old and 25 years old. Fourth, a third pipeline eliminates the need and cost to abate negative wholesale customer impacts associated with a booster pump station.

In August Wyoming solicited qualifications from eight engineering firms for the purpose of selecting a pipeline design engineer. This was done in response to the Michigan Department of Environmental Quality's request that Wyoming pursue the construction of a third transmission pipeline without delay. Two firms, Black & Veatch and Prein & Newhof, responded to Wyoming's request and submitted qualification statements. They were also asked to prepare and submit design engineering proposals. After careful evaluation of the qualifications and proposals, Prein & Newhof was determined to be best qualified to perform the necessary transmission pipeline engineering work.

**Budget Impact:**

The \$1,231,000 cost for designing the first phase of a third transmission pipeline can be financed out of the Water Fund, account number 591-591-57300-986.444, but a budget amendment is necessary.

A high-speed photograph of water splashing, with several droplets suspended in the air above a pool of water. The background is a soft, out-of-focus light gray.

# PROPOSAL

**54" Water Transmission Pipeline**

Professional Engineering Services

Prepared for:  
**City of Wyoming**

Date:  
**September 27, 2018**

September 27, 2018

Robert Veneklasen  
City of Wyoming  
DK Shine Water Treatment Plant  
16700 New Holland Street  
Holland, MI 49424

Dear Mr. Veneklasen and members of Wyoming's review team:

First of all, thank you for the opportunity to submit this proposal for the first phase of your third transmission main. As we noted in our qualifications statement, Prein&Newhof has more experience than any West Michigan firm designing long, large-diameter pressure and gravity pipelines. This experience is invaluable in understanding the level of effort needed to design a large-diameter transmission main.

Our team spent a lot of time looking at your needs and identifying challenges associated with your project. We've studied your system and came up with several unique concepts to make this project easier, less costly and more reliable. Our proposed fee reflects developing those concepts. It also includes our knowledge of what is required by local review agencies and what is required for the MDEQ permitting processes, specifically where they concern dewatering, water discharge and PFAS.

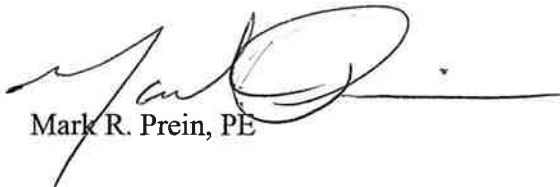
We show our preliminary and final design approach in the narrative and spreadsheet in the attached proposal. There are a lot of details which go into a successful pipeline design, and we think we've captured most of them and allowed sufficient design budget to do them right.

This is a significant project, and as you work to select your design partner, we'd love the opportunity to sit down with you and share some of our thoughts! Please contact me to talk about or answer your questions about our proposal.

We'd love to put our experience and passion to work for you!

Sincerely,

Prein&Newhof



Mark R. Prein, PE

Enclosure: Engineering Proposal



1     **Work Plan**

16    **Schedule**

17    **Fees**



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# Work Plan

## Introduction

The following narrative describes Prein&Newhof's recommended preliminary and final design process for your new, 10.5-mile-long, 54-in.-diameter water transmission main.

**Note:** Your RFP references a 9-mile-long pipeline. The east-west part of the pipeline is 9 miles long. The north-south part on 96th between Barry and Ransom is 1.5 miles long, and we must do a corridor study for this part of the pipeline before preliminary design.

You will see our approach to your project by work area and task, including hours of effort, summarized in the table on the last page. The following text presents insight into our approach and the level of effort we think you need to make this a successful project over its lifetime.

## Preliminary Design

### STRATEGY

The first step in any major pipeline design project is a corridor study. After finishing a corridor study, we move to preliminary design.

The preliminary design is the most critical phase of any project. It's where we work with you to find and evaluate alternatives and make the foundational decisions that drive the final design.

We expend a lot of effort in preliminary design, and we use our best and brightest people to guide this process. Mistakes or oversights in preliminary design can cost you millions of dollars over this pipeline's life span.

Described below are some critical decisions we need to make in preliminary design. For each decision, there are alternatives we must consider before settling on a recommendation. Studying alternatives often takes a lot of research, but many times it does not.



Preliminary design is the most critical phase of any project

We expend a lot of effort in preliminary design, and we use our best and brightest people to guide this process. Mistakes or oversights in preliminary design can cost you millions of dollars over this pipeline's life span.

When we consider any alternative, we develop an evaluation scoping strategy to spend as little time and money as possible to get to a “no-go” answer. Surprisingly, we’ve seen owners spend way too much to reach no-go decisions.



When we consider any alternative, we develop an evaluation scoping strategy to spend as little time and money as possible to get to a “no-go” answer.

For example, there are three common types of pipe materials capable of serving as your transmission main. They are PCCP, DIP and steel. We understand you do not want steel pipe. We’ll confirm this with you. If you decide against steel, for example, there’s no need to pick a thickness, design a coating and lining, or write specifications. Surprisingly, we’ve seen owners spend way too much to reach no-go decisions. On one project, a community invested \$80,000 on a hydrogeological study for a new drinking water well and found the water quality was unacceptable. They could have learned the same thing for \$2,000 by reviewing well logs and sampling tap water from the same aquifer. A good preliminary design scoping strategy minimizes the potential for over-spending researching an alternative.

Once we agree on each preferred alternative, we can move to final design on that part of the project.

### **KEY CHALLENGES IN PRELIMINARY DESIGN**

Here are the critical decision items for the preliminary design. Please note this is not a linear process as several of these items will happen concurrently.

#### **1. Map the route and identify conflicts**

- We’ll start with Ottawa County’s base GIS map.
- Next we’ll get and map the utility information we receive from the MISS DIG Design Ticket and look for potential conflicts.
- We will talk with you about the desired separation distance between this pipeline and your existing 54-in. transmission main along New Holland Street.
- At your treatment plant, we’ll study your existing record plans and devise ways to connect to and/or cross the existing mains (see item 7), place valves, and develop construction sequencing and a step-by-step connection/crossing strategy.

- We'll meet separately and collectively with MDOT, the OCWRC, OCRC, MDEQ, affected Townships, and selected utility companies to get their input on the pipeline routing and any unique design standards. Communication with these key stakeholders is critical to this project's success. This will cut out later surprises.
- We'll deal with potential environmental and dewatering issues (see items 2 and 3).
- We propose to create GIS layers for all classes of data (e.g. environmental sites, soil information, ROW, private utilities, current and future service areas, needed easements, etc.) so you can reference it easily and include it in your GIS. With all this information on one map we can choose the best pipeline location within the route.
- When we pick the best pipeline location, we will survey it and build a CADD base map showing the entire proposed route.

## 2. Identify potential environmental issues and permitting for handling them

We have found both LUST and arsenic-contaminated sites along the proposed route. We plan to do a Phase II ESA for each of them to make sure construction of the new water main will not affect them. If needed, we'll create a remedial action plan to address any environmental concerns from these or other sites we find.

- We'll finish our preliminary environmental survey for the north-south pipeline corridor on 96th between New Holland and Ransom.
- We'll map possible PFAS sites/generators to the mapped list of potentially contaminated sites. (This issue has evolved since we published your corridor study.)
- We'll find wetland locations and threatened and endangered species affected by the pipeline route.
- We'll talk with MDEQ about any permitting issues.

## 3. Devise a dewatering strategy

There is a shallow groundwater table along most of the pipeline route, and this triggers several considerations.

We'll meet separately and collectively with MDOT, the OCWRC, OCRC, MDEQ, affected Townships, and selected utility companies to get their input on the pipeline routing and any unique design standards.



We propose to create GIS layers for all classes of data (e.g. environmental sites, soil information, ROW, private utilities, current and future service areas, needed easements, etc.) so you can reference it easily and include it in your GIS.

We'll map possible PFAS sites/generators to the mapped list of potentially contaminated sites. (This issue has evolved since we published your corridor study).

We'll talk with MDEQ about any permitting or need for further study since dewatering (water withdrawal) rates likely will exceed 70 gpm.

We'll decide if you must treat dewatering discharges based on our environmental findings (including groundwater testing) and meeting with MDEQ.

We'll map all easements and scan copies of the final signed documents to link with your GIS for quick future reference.

- We'll look at local residential well logs for location and depth and address any potential concerns for needing temporary water or well replacements. We'll scan or copy these records to GIS.
- We'll meet with local blueberry farmers to talk about ways to assure a steady supply of water for their fields.
- We'll talk with MDEQ about any permitting or need for further study since dewatering (water withdrawal) rates likely will exceed 70 gpm. MDEQ requires using their Water Withdrawal Assessment Tool (WWAT) if dewatering averages over 100,000 gpd in any consecutive 30 days. We'll review each anticipated dewatering setup with the WWAT. Our quick review of the WWAT suggests it will "fail" and need a site specific review over most of the route. While this will take time and effort, we expect MDEQ approval based on returning the withdrawn water back to the receiving water (non-consumptive).
- We'll decide if you must treat dewatering discharges based on our environmental findings (including groundwater testing) and meeting with MDEQ. If needed, we'll analyze the type(s) of treatment to include in the final design.

#### **4. Identify needed permanent and construction easements, property acquisitions**

- After picking the best transmission main location in the selected route, we'll draw up needed easement descriptions and/or property acquisition descriptions. Based on our review of your proposed route, you'll need 57 permanent and a similar number of construction easements along New Holland Street.
- We'll map all easements and scan copies of the final signed documents to link with your GIS for quick future reference.
- We plan to support you and Land Matters with drawings and descriptions for all easements and property acquisitions.

#### **5. Select acceptable pipe material(s)**

- This starts by modeling the system hydraulics and surge pressures.

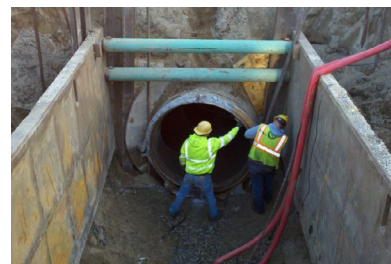
- Next, we'll set minimum and maximum burial depths.
- We'll take live loads over the pipeline into account.
- We'll check for soil, groundwater, and stray current corrosivity potential near the pipeline. (See item 6).
- We'll talk with you about the merits and drawbacks of the three most common large-diameter pipe materials. Pipe materials are evolving, and we can share our experiences with you.
- We'll summarize how pipe material selection(s) affects cost, water main crossings and connections, and reliability and constructability before settling on one or more acceptable pipe materials.
- We should talk about taking material bids before construction bids. There may be economic advantages to doing this, which we can explain when we meet.

### 6. Corrosion protection

- All three potential pipe materials contain ferrous metal, so a discussion about corrosion protection is appropriate. The level of corrosion protection and monitoring varies depending on the pipe material chosen.
- First, we'll take soil borings along the entire route and analyze them for corrosion potential (chlorides and resistivity) and locate groundwater levels. Depending on our environmental review, we may test samples for contamination.
- We'll talk with the utility companies (in Step 1 above) about any cathodically protected pipelines or stray currents that may influence this pipeline.
- For ductile iron pipe, we always recommend a polyethylene encasement for a critical pipeline. Special coatings also are available. We'll also talk about our thoughts on bonded joints and test stations. We do not favor tape-wrapping DIP.
- PCCP and steel both need more rigorous corrosion protection systems, including bonded joints, test stations and sometimes cathodic protection (buried anodes).
- Steel must be tape-wrapped.

We'll talk with you about the merits and drawbacks of the three most common large-diameter pipe materials. Pipe materials are evolving, and we can share our experiences with you.

All three potential pipe materials contain ferrous metal, so a discussion about corrosion protection is appropriate. The level of corrosion protection and monitoring varies depending on the pipe material chosen.





We've already developed a conceptual plan to meet each inter-connection challenge at a reasonable cost.

During construction, we'll coordinate with your plant staff to schedule critical connections.

Depending on the locations of existing yard valves and construction sequencing, we think we can design this project with no live taps or line stops while maintaining system operability and reliability.

- High chlorides (>350 ppm) may affect PCCP.
- For the corrosion design for steel or PCCP pipe, we'll do an over-the-line, electromagnetic soil corrosion potential survey coupled with ground-truthing using the Wenner four-pin method.
- Cased pipe/road crossings may need special insulating joints and designs.
- We've worked since 1999 with California-based corrosion consultant Dr. Graham Bell, PhD., PE, on most of our major pipeline projects. He will advise us on all corrosion decisions, manage the over the line survey, and do all bonded joint, test station and cathodic protection designs.

## 7. Study and decide on critical interconnections, crossings, valves and operational sequencing

Although it's listed as critical decision #7, this is the most difficult challenge we'll face in this project's design. You'll need creative pipe interconnection solutions at four locations:

- At the maze of large-diameter buried piping at your treatment plant.
- Where the two 54-in.-diameter pipelines intersect at 164th Avenue.
- Where the new 54-in diameter pipeline intersects the existing 54-in diameter pipeline for the second time at New Holland and 96th Avenue. We also plan to talk with Grand Rapids about leaving a stub to the north on 96th for their eventual interconnection to your system.
- Where the new 54-in.-diameter pipeline intersects the existing 42-in.-diameter pipeline at Ransom Street and 96th.

There's a lot riding on doing this right, and we've already developed a conceptual plan to meet each of the following inter-connection challenges at a reasonable cost:

- **Reliability.** Long-term, our conceptual design creates two new loops and allows you to deliver water to your customers with one or two pipelines out of service. Where the two 54-in. pipelines cross at New Holland and 164th, there is a potential reliability issue if the two pipelines connect at a single point. Our conceptual design eliminates

crossing under or over the existing transmission main, is easier to build, less costly, and delivers full reliability. During construction, we'll coordinate with your plant staff to schedule critical connections during low water demand while you continue to deliver water to your customers.

- **Cost.** Large-diameter plumbing is expensive and difficult to install. Our conceptual design:
  - Eliminates the need for expensive and time-consuming live-taps or line-stops on existing transmission mains. You can isolate sections using existing valves.
  - Minimizes the number and cost of fittings.
  - Minimizes the construction time at each location.
  - Picks the optimal valve sizes based on our hydraulic analysis.
  - Can be built with or without buried valve chambers.
  - Eliminates crossing the existing 42-in.-diameter transmission in the WTP yard.
  - Eliminates crossing the existing 54-in.-diameter transmission under New Holland Street.
  - Includes built-in access ports at key fittings to allow for future pipeline inspections including CCTV, RFEC/TC, Acoustic Monitoring, Smart Ball and other emerging pipeline asset management and risk assessment technologies.
  - Simplifies plant and pipeline operation for the life of the project.
  - Leaves a simple connection at Ransom Street and 96th Avenue for whenever you extend the new 54-in.-diameter transmission main to the south or east. We will talk about doing a similar connection at Barry and 96th for when you and Grand Rapids decide to interconnect there.
- **Sequencing.** We'll coordinate with you and your operational staff to write a sequential connection schedule, and for each connection, a step-by-step operations/construction process.

In the preliminary design, we'll review all your existing records and as-built drawings. Next we plan to locate all critical pipelines using potholing. This not only helps us verify their location, it'll also help us verify the pipe type at each site.

We must verify there is adequate joint restraint or devise a way to de-pressurize the pipeline at each excavation/connection location.

Our goal is to have a complete and acceptable routing and conceptual connection/operational process in place before incurring any other major expenses.



Depending on the locations of existing yard valves and construction sequencing, we think we can design this project with no live taps or line stops while maintaining system operability and reliability. In line with this, you will see in our fee spreadsheet we have included no costs for line stop or live tap designs. Eliminating line stops or live taps will save you hundreds of thousands of dollars.

In the preliminary design, we'll review all your existing records and as-built drawings. Next we plan to locate all critical pipelines using potholing. This not only helps us verify their location, it'll also help us verify the pipe type at each site.

We must verify there is adequate joint restraint or devise a way to de-pressurize the pipeline at each excavation/connection location. We're hopeful there are valves inside your high service pumping station or reliable records in your files to show your yard piping is restrained. If so, we're fine uncovering pipes for connections at your WTP. At 164th Avenue and New Holland, for example, there may not be restrained joints as there is a long, straight pipeline in either direction. In that case, we must design a yard valve (as part of the yard piping) to allow construction there.

Our goal is to have a complete and acceptable routing and conceptual connection/operational process in place before incurring any other major expenses.

### Final Design

The following narrative/outline explains the work tasks and process we propose for the final design. As with the preliminary design, this is not a linear process as several activities will take place concurrently.

#### 1. Kickoff Meeting

Ken Bosma and Mark Prein will represent P&N at the design kick-off meeting. Before this meeting, they will have requested, received and reviewed all relevant and published background data relative to the project. We would expect you will invite other project stakeholders to come to this meeting such as the Ottawa County Road Commission,

the Ottawa County Water Resources Commissioner, Townships, and the City of Wyoming Water Department.

At the kick-off meeting, we plan on getting input from all project stakeholders as to their specific needs. We will talk about items such as schedule, pipeline placement, easement acquisition, future utility locations, connections to the existing pipelines, and effects of dewatering.



## 2. Confirm Design Standards

At the kick-off meeting, we will confirm with you all relevant design standards and language we must incorporate into the drawings, specifications and contracts. We will talk about things like vertical and horizontal drawing scales, preferred equipment brands, standard specifications, and any special stakeholder needs/requirements.

## 3. Design Progress Meetings (at 30%, 60%, and 90%)

During design, we have allowed for three design meetings at the above intermediate milestones. We would expect you will invite other project stakeholders to come to these meetings as appropriate.

## 4. Coordinate with stakeholders

Our designs will reflect input from and be sensitive to the concerns of your stakeholders. This includes consideration of standard locations, right-of-way, restoration, existing utility locations, dewatering, future utility and drainage coordination, among others.

## 5. Verify Existing Information

P&N will verify existing information such as location of private and public utilities, county drains and drainage systems, pavement location and type, property lines, and right-of-ways both before the design kick-off meeting and during the topographical survey. We find utilities maps often are not accurate. We plan to use ‘pothole’ excavating wherever we need accurate pipe and utility locations at critical crossings. This allows for better designs and reduces costly delays and claims for extra contractor compensation.

We plan to use ‘pothole’ excavating wherever we need accurate pipe and utility locations at critical crossings. This allows for better designs and reduces costly delays and claims for extra contractor compensation.



**6. Soil Borings (85 Borings, Total depth 1,435 feet)**

We will take soil borings along the entire route. Besides soil type, we can test borings for potential corrosivity and groundwater depths and chemistry.

**7. Pavement Corings (38 Cores, Total Depth 94 feet)**

Pavement corings through the existing road section will help the design team estimate the cost of road removal and replacement. We will talk about replacement requirements with OCRC. A good quantity take-off helps us build a reliable cost estimate and cut out construction extras. A “bust” between assumed and actual conditions can raise total project costs much higher than your estimate.



**8. Topographical Survey**

Additional topographic survey using total station will find items of special interest and all underground utilities. Our schedule anticipates no winter surveying.

**9. Right-of-Way**

The topographic survey will show any right-of-way issues.

**10. Easement Identification and Easement Sketches**

P&N will prepare the easement sketches and descriptions. We estimate you’ll need 57 easements and a similar number of construction easements. We expect either the City of Wyoming or Land Matters will do the Title work, prepare the easement documents and get the easements.



**11. Conceptual Connection Designs**

Parallel pipelines transport more water if they are efficiently inter-connected. We see the pipeline interconnections at your water plant and at each crossing of existing mains as a significant technical and potential reliability challenge. Proper valve locations and connections between the existing and new lines will be critical in maximizing their reliability. If you can get rid of a crossing, you will significantly increase system reliability and flexibility. We identified potential solutions to eliminate pipes crossing each other and will share them with you during our preliminary design.

Once we develop our interconnection approach, we are only half way through the solution. Equally important is the constructability and phasing/sequencing. It takes significant effort and coordination with your water system operators. We'll develop step-by-step plans at each interconnection before doing any final design.

## 12. Prepare Construction Plans, Specifications and Cost Estimates

We will develop a complete set of construction documents, including construction plans, specifications and contract documents. We noted in our earlier statement of qualifications that we design transmission mains to a set grade, which improves pipeline hydraulics, minimizes the number of blow-offs and air release valves, reduces air pockets, and saves energy. When we design large-diameter pipelines, we also look for ways to decrease the need for restrained joints. Plans and specifications will meet the City of Wyoming and all stakeholders' needs, including your standard scales and sheet layouts.

## 13. Develop Guidelines for Chlorination and Pressure Testing

We will specify chlorination and pressure testing preferences after conferring with you. We like to add a surfactant when we do our chlorination. It helps the chlorine work better by breaking the surface tension in bacterial cell walls. Wyoming will collect and test disinfection results.

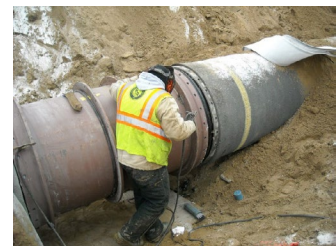
## 14. Develop Dewatering Specifications

Dewatering is a key consideration in this design. Improper dewatering not only risks the long-term performance of the pipe but also can create an undue hardship on the blueberry farmers and residents. Our dewatering plan will protect shallow wells and pipe-soil structure, provide an alternative drinking water source if needed, and protect the blueberry farmers.

We plan to propose an innovative dewatering concept to compress the project schedule while meeting the needs of the blueberry farmers. P&N will present this concept to you, the Water Resources Commissioner, and residents early in the design phase. Because the

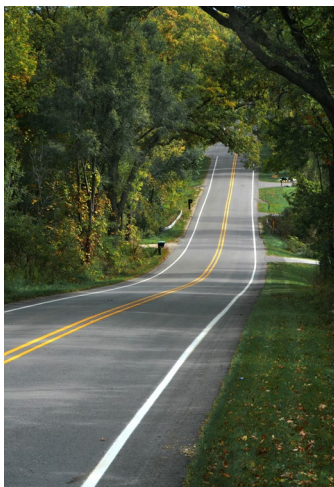
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We plan to propose an innovative dewatering concept to compress the project schedule while meeting the needs of the blueberry farmers.





Keeping the public informed of how to avoid construction areas will affect the public's view of the success of the project.



surrounding area is flat, and the ditch bottoms have little slope, P&N's dewatering design will also consider and manage the potential for downstream flooding.

If our Phase II ESA or soil testing reveals contaminated groundwater, we'll work with MDEQ to develop a proper dewatering discharge water treatment scheme.

### **15. Traffic Maintenance**

Even though most of the route is not in a high traffic area, we recommend a traffic control and detour plan to meet the road commission's needs. Due to the scale and duration of the project, keeping the public informed of how to avoid construction areas will affect the public's view of the success of the project.

### **16. Road Restoration**

Road restoration design is not as simple as it seems. Besides a pavement cross section, we must do a complete vertical centerline and right and left pavement edge designs so we can match existing driveways. We've been disappointed on projects that rely on the contractor to 'replace pavements in original location' by bad drive connections and puddles. These create citizen and resident complaints, and having a pre-set design not only improves existing conditions, it makes it easier for us to do our construction staking.

### **17. Prepare Site Plan Drawings for Restoration at WTP**

Because the WTP yard piping is buried beneath existing parking and landscaped areas, we will prepare engineering and landscape architectural site plans for restoring all disturbed areas at your WTP.

### **18. Develop Permit Applications**

P&N will prepare and submit permit applications. We expect needing the following permits for the project:

- MDEQ water main construction permit; inland lakes and streams, wetlands, endangered species
- OCRC construction within right-of-way permit
- MDOT construction within right-of-way

- CSX construction within right-of-way
- OCWRC soil erosion and sedimentation permit and drain use permits for work near a County drain

It is our understanding that any wetland designs, if needed, will be on a time and material basis. We do not anticipate needing any wetland mitigation.

Our proposal assumes Wyoming will pay all permit application fees.

### 19. Confirm Cost Estimate

We will develop preliminary and final construction cost estimates. We'll use the preliminary cost estimates to evaluate alternatives, build a budget, and help you develop financing plans.

### 20. QA/QC Review

The QA/QC review helps to decrease your overall project cost. Our QA/QC goal is to offer a better project at lower cost with fewer challenges. A good set of construction plans and bid documents provides clarity to all, produces better bids by reducing unknowns, allows for quick construction, minimizes change orders, and requires a lower level of construction services.

For this design, we plan to partner with J. Warren Green, PE, of Lockwood, Andrews and Newnam in Chicago for a pre-design scoping review, value engineering, and a final QA/QC review. His extensive big-pipe and water project experience will provide value for this transmission main design.

We usually ask a local contractor to look at our construction plans (constructability review) on larger projects. For this project, we plan to ask Grand Rapids-based Kamminga & Roodvoets for a constructability review. We'll also ask K&R to look at our plans and develop a 'trial bid' to help us uncover costly designs and other items that may involve unnecessary contractor risk, which can lead to claims or higher costs. Their review also will tell us if we missed something or excluded sufficient information for a competitive bid.

For this design, we plan to partner with J. Warren Green, PE, of Lockwood, Andrews and Newnam in Chicago for a pre-design scoping review, value engineering and a final QA/QC review. His extensive big-pipe and water project experience will provide value for this transmission main design.

We'll also ask K&R to look at our plans and develop a 'trial bid' to help us uncover costly designs and other items that may involve unnecessary contractor risk, which can lead to claims or higher costs.

One of the strategic benefits P&N offers is to “recruit” responsible and qualified contractors to bid our projects. This helps get you better bids for your work and maintains the quality of the bidders’ pool.



## 21. Pre-Construction Video

Taking a pre-construction video diminishes the cost of construction damage claims made by landowners along the pipeline route and helps with public meetings. We record at culverts, homes, fences, cracks in pavements, vegetation, sprinklers and anything else for which a property owner might claim damages.

## Bid Phase Services

### 1. Advertise & Issue Bid Packages

One of the strategic benefits P&N offers is to “recruit” responsible and qualified contractors to bid our projects. This helps get you better bids for your work and maintains the quality of the bidders’ pool. We cannot state this too strongly in this challenging atmosphere where contractors are busy.

We have used several strategies in the past to control the spread of bid documents while still meeting your “public” bid rules and delivering great value. Two of our ideas include bidding pipe materials separately and splitting the project into two construction contracts. If you bid this as one contract, its sheer size may deter or leave out local bidders in favor of national or east-side pipeline contractors.

P&N offers another key advantage because we do not have offices east of Grand Rapids, and we rarely advertise our projects to contractors there. It has been our experience that underground contractors in West Michigan are far less prone to build their projects in court than those from outside the area.

### 2. Conduct Pre-Bid Meeting & Provide Minutes

P&N will be at and lead the pre-bid meeting at your desired location and time. The meeting minutes will go to all plan holders and stakeholders as a project addendum.

### 3. Answer Bidders’ Questions

During bidding, should questions arise, P&N will collect and answer contractor questions under the procedures set in the contract documents.

#### **4. Produce Addenda**

Should any bidders' questions need explanation and to distribute the pre-bid meeting minutes, P&N will prepare and send addenda under procedures explained in the contract documents.

#### **5. Accept & Review Bids, Recommend Award**

P&N will collect the bid documents and review the line item proposals for any discrepancy in line item values that would appear to result in an unbalanced bid and create a bid tabulation to confirm the proposal values. Once we confirm the apparent low bidder, P&N checks references to verify the contractor is qualified. We will send you a summary letter of our findings.



# Schedule

Every successful project starts with a schedule. Based on our meeting, we understand you are anticipating 2022 construction. This means bidding in fall 2021. This leaves 3 years to design and permit the project.

We can finish our preliminary design report by summer of 2019. We could do our survey and field work between fall 2019 and spring 2020, working around weather. Final design can be done by fall 2020.

2021 construction is possible.

Because of the size and complexity of this project, we think you are best served by going to construction as soon as possible after the survey is done. This minimizes your risk of construction extras as a lot can change in two or three years. We understand there may be unexpected challenges with easements, permits (especially CSX), or other issues that may affect your schedule.

There are also risks with moving too fast. Not taking enough time to do a thorough design can be equally problematic.

Because of these considerations, we have scheduled our work effort to complete preliminary design in summer 2019 with the final design and ready for bidding by fall/winter 2020/2021. This schedule affords the design team adequate time to design a quality project and still leaves time should an unexpected issue slow its progress. Either way, we are flexible and open to whatever schedule Wyoming determines is best for you.

## Design Engineering Services (or Scope of Services)

Your RFP asked for a breakdown of proposed design services. The next page shows you a summary of P&N's proposed level of effort by task and area of work.

Based on our proposed scope of work, we offer our services on a time and material basis at a fee of **\$1,231,000**.

We understand this project is dynamic, and depending on our findings and other influences, its scope may increase or decrease. Our goal is to design the best possible project at the lowest total cost of ownership over its lifetime. We are eager to begin working with you and look forward to delivering an excellent design and outcome for the City of Wyoming.

**Professional Hours Worksheet**

City of Wyoming - 54" Water Transmission Pipeline

Staff Member	Sen. PMII M. Prein	Sen. Eng. Taplin	Sen. Eng. Timmer	Sen. PMII Bosma	Sen. PM Hegarty	Sen. PMII Marczak	Sen. PMII CJC	Sen. Eng. Stone/Levan.	Sen. PM Brown/T. Smith	Sen. PM Vilmont	Con Ob. Vriesman	Geologist Woodburne	Sen. Tech III WDS	Sen. PM Dem./Feria	PM Brink/Jim C.	O. Tech M Van.	Prof. Survey DE	1 Man Crew x robot	Sen. Tech JVh	Sub-contracts	Expense	Mileage	Total Cost	
<b>Task I - Preliminary Design Engineering</b>																								
<b>Stakeholders</b>																								
Stakeholders Meetings (2- Twp./RC, 2- Utilities)	32	12	24	32																		408	\$23,200	
Grand Rapids, Port Sheldon Twp., and Olive Twp. Connection review	8			24																				
City Council and Wholesale Customers Meeting	12			12																		86		
<b>Route Review</b>																								
Meeting with MDOT and OCRC to review route	4		8																			102	\$14,300	
Obtain and review ROW documents			8																					
Obtain and review existing easements			4																					
Miss Dig Design Request			4																					
Public and Private Utility Research/GIS			4											58										
Future Service Area Review	6		6	6																				
Preliminary Basis of Design Development	8	8																						
<b>Environmental Review</b>																								
Corridor EDR review							4					50		16							\$640.00			\$28,600
Phase II (2 sites)							4					80									\$4,200.00			
Wetland Review																					\$3,000.00	102		
Threatened/Endangered Species Review																					\$2,000.00			
<b>Dewatering Strategy</b>																								
Well Log Review															12									\$8,600
Well Log GIS														32	4									
Water Withdrawal Permitting															18									
Blueberry Farmers															8									
<b>Easements</b>																								
Permanent Easement Descriptions (57)			8														57		228					\$66,500
Construction Easement Descriptions (57)			8														57		228					
GIS Mapping														12										
Link Final Recorded Documents														12										
Land Matters Coordination			40																					
<b>Pipe Material Review</b>																								
Options/Soil Impact/Operational Impact	4	12			32					4														\$10,900
Construction Requirements	4	6			16																	204		
<b>Preliminary Hydraulic Analysis</b>																								
Main Line Pressures/Flow									64															\$12,500
Surge Pressure									24															
Holland Township Water System Operational Considerations	8			8																				\$2,500
Coordination / Project Management (9 months)	72	72	72	54												6								\$36,600
<b>Preliminary Design Engineering Subtotals</b>	<b>158</b>	<b>110</b>	<b>186</b>	<b>136</b>	<b>48</b>	<b>0</b>	<b>8</b>	<b>0</b>	<b>88</b>	<b>4</b>	<b>0</b>	<b>130</b>	<b>0</b>	<b>130</b>	<b>42</b>	<b>6</b>	<b>114</b>	<b>0</b>	<b>456</b>	<b>\$9,800.00</b>	<b>\$0.00</b>	<b>400</b>	<b>\$203,700</b>	
<b>Task II - Field Surveys &amp; Investigation</b>																								
<b>Survey/Mapping</b>																								
Set Survey Controls/Benchmarks																	3	101	2					\$111,100
Aerial Photography and Digital Mapping																					\$19,250			
Topographical Survey																	70	571	137			3,468		
<b>Geotechnical Investigation</b>																								
GPS locations													8									16		\$100,800
Soil Borings (85 Borings, Total depth 1,435 feet)							20						14		144	12					\$27,300		1,836	
Pavement Coring (38 borings, Total depth 94 feet)							2						4		18	4					\$2,625	\$300	204	
Laboratory testing(resistivity and chlorides)																						\$3,000		
Traffic Control																					\$30,000			
<b>Locate Existing Utilities - Hydrovac</b>																								
High Pressure Gas Coordination			24								16													\$55,700
Hydrovac Excavation											100											32		\$20,000
Traffic Control																					\$15,000			\$1,020
<b>Wetlands/Threatened Species</b>																								
Wetland Boundary Flagging and Report			16											8										\$9,000.00
Threatened/Endangered Species			4																					\$4,400.00
<b>Field Surveys &amp; Investigation Subtotals</b>	<b>0</b>	<b>0</b>	<b>44</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>22</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>116</b>	<b>0</b>	<b>18</b>	<b>16</b>	<b>162</b>	<b>16</b>	<b>73</b>	<b>720</b>	<b>139</b>	<b>\$127,575</b>	<b>\$4,300</b>	<b>7,140</b>	<b>\$285,800</b>	

**Professional Hours Worksheet**

City of Wyoming - 54" Water Transmission Pipeline

Staff Member	Sen. PMII M. Prein	Sen. Eng. Taplin	Sen. Eng. Timmer	Sen. PMII Bosma	Sen. PM Hegarty	Sen. PMII Marczak	Sen. PMII CJC	Sen. Eng. Stone/Levan.	Sen. PM Brown/T. Smith	Sen. PM Vilmon	Con Ob. Vriesman	Geologist Woodburne	Sen. Tech III WDS	Sen. PM Dem./Feria	PM Brink/Jim C.	O. Tech M Van.	Prof. Survey DE	I Man Crew x robot	Sen. Tech JVh	Sub-contracts	Expense	Mileage	Total Cost
<b>Task III - Final Design Engineering</b>																							
<b>Design Coordination</b>																							
Kickoff Meeting	4			4																			\$26,500
Contract Structure Selection (Number of Contracts)	6												8										
Confirm Specification Standards (Order of Use)		12																					
Coordination and Scope Meetings (4)	12	6	16																				408
Coordination Meeting (Monthly - 11 months)	33	11	22	22																			1,122
Design Progress Meetings (@ 30%, 60% and 90%)	12	18																					306
<b>Transmission Main (General)</b>																							
Pipe Design	16	40			8					16										\$5,000			\$211,200
Main Profile Design	24	168																					
Restraining System	8	38							8														
Drains and Blow offs	4	8							40	4													
Pipe Bonding/Isolation	2	12			12					2													
Corrosion Design		4			12																		
Construction Plans (1 cover; 56 plan/profile, 1 detail; 1:40, 1:5)																							
Utility Relocation	4		128																				
Construction Phasing/Access Plan	2	6			6																		
Project Specifications	8	16																		\$10,000			
<b>Piping Connections</b>																							
Pipe Design	48	48			12					10													\$76,200
Valve Selection	8	16																		\$7,500			
Restraining System	24	28			8				32	4										\$15,000			
Pipe Closure Design	8	16			8																		
Construction Plans (4 details)	5	20													64								
Construction Phasing/Access Plan	8	2			6																		
Project Specification	2	8																					
<b>Plant Connections</b>																							
Pipe Design	56	36			16					8													\$63,400
Valve Selection	8	16																					
Restraining System	32	36			16				8	4										\$10,000			
Pipe Closure Design	4	8																					
Operational Limitation Review	8	2																					
Pipe Construction Plans (4 sheets total)															64								
Landscape Architect - Restoration								20															
Construction Phasing/Access Plan	16	4																					
Project Specifications	16	8																					
<b>Corrosion Engineering (G. Bell)</b>																							
Identify Induced Corrosion Potential Areas		4			4															\$14,000			\$68,900
Electromagnetic Conductivity Survey		4			16															\$18,400			
Pre-Design Report		2			4															\$19,700			
Design Corrosion Control Methods		8			8															\$4,500			
<b>Disinfection</b>																							
Pipe Flushing/Cleaning	1		8																				
Chlorination and Dechlorination	2		24																				
Surfactant Usage	2		4																				
Sample ports, protocol , and testing requirements	2		16																				
<b>Restoration</b>																							
Road Design (5.6 Miles)		44						11							176								\$34,700
Intersection Design		6						2							16								
Creek Culvert Replacement			24																				
<b>Constructability and Environmental issues</b>																							
Project Sequencing - Global(1 sheet)	40	16			8										16								\$63,300
MOT - Traffic Control/Phasing Design (9 Sheets)								60							108								
Environmental Mitigation (2 sites)						30						40											
Contractor Constructability Review(K&R)																				\$20,000			
<b>Permit Requirements in Contract Documents</b>																							
Wetland Crossing and Mitigation			24												32					\$7,500		102	\$46,100
NPDES, Greater than 5 Acres - Design			2												4								
Culvert for WRC and Creek Crossing			40												8								
CSX Crossing			32												16								
Soil Erosion and Sedimentation Control (SESC) Design		54	2												36								
MDOT US-31 Crossing	8	24	24												8								

**Professional Hours Worksheet**

City of Wyoming - 54" Water Transmission Pipeline

Staff Member	Sen. PMII M. Prein	Sen. Eng. Taplin	Sen. Eng. Timmer	Sen. PMII Bosma	Sen. PM Hegarty	Sen. PMII Marczak	Sen. PMII CJC	Sen. Eng. Stone/Levan.	Sen. PM Brown/T. Smith	Sen. PM Vilmont	Con Ob. Vriesman	Geologist Woodburne	Sen. Tech III WDS	Sen. PM Dem./Feria	PM Brink/Jim C.	O. Tech M Van.	Prof. Survey DE	1 Man Crew x robot	Sen. Tech JVh	Sub-contracts	Expense	Mileage	Total Cost	
<b>Contract Documents</b>																							\$17,500	
Contract Specifications	2		16																					
Proposal Development	2	32	6																					
Contract Legal Review		2																						
Project Specification	16	24	16		24																			
<b>QAQC</b>																							\$54,200	
Internal Global Check	16			16	4			24		4														
Contractor Proposal Review (K&R)	2	12																			\$14,000			
Engineering Third Party (LAN)	16	12																			\$15,000			
Estimate of Probable Cost	4	24	4					2																
Final Revisions following City Review and QAQC		12	12										8											
<b>Administration (48 weeks)</b>	96			24																			\$18,800	
<b>Preconstruction Video</b>											60											612	\$5,400	
<b>Final Design Engineering Subtotals</b>	<b>587</b>	<b>867</b>	<b>420</b>	<b>66</b>	<b>172</b>	<b>30</b>	<b>0</b>	<b>119</b>	<b>88</b>	<b>52</b>	<b>60</b>	<b>40</b>	<b>1500</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$160,600</b>	<b>\$0</b>	<b>2,652</b>	<b>\$693,300</b>
<b>Task IV - Permit Services</b>																								
Water Construction Permit Application	2	4	16																					
NPDES - Disturbance of greater than 5 acres			8																					
Permit Application - Threatened/Endangered Species			12																					
Permit Application - Wetland, Floodplain, Inland Lakes			18																					
Permit Application - SESC		4																						
Permit Application - OCRC	2		24																					
Permit Application - MDOT			64																					
Permit Application - CSX			48																					
Permit Application - Water Withdrawal	2		8										12	30	24	16								
<b>Permit Services Subtotals</b>	<b>6</b>	<b>8</b>	<b>198</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>30</b>	<b>24</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>	<b>0</b>	<b>\$33,700</b>	
<b>Task V - Bid Phase Services</b>																								
Advertise & Issue Bid Package	2	2	2													8								
Mandatory Pre-Bid Meeting	4	4	8																			102		
Answer Bidders' Questions	8	24	16																					
Produce Addenda	8	16														6								
Accept, Tabulate & Review Bids, Recommend Award	2	4	4													2								
<b>Bid Phase Services Subtotals</b>	<b>24</b>	<b>50</b>	<b>30</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>16</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>\$0</b>	<b>\$0</b>	<b>102</b>	<b>\$14,500</b>	
<b>Project Grand Total</b>	<b>775</b>	<b>1,035</b>	<b>878</b>	<b>202</b>	<b>220</b>	<b>30</b>	<b>30</b>	<b>119</b>	<b>176</b>	<b>56</b>	<b>176</b>	<b>170</b>	<b>1,530</b>	<b>176</b>	<b>228</b>	<b>54</b>	<b>187</b>	<b>720</b>	<b>595</b>	<b>\$297,975</b>	<b>\$4,300</b>	<b>10,294</b>	<b>\$1,231,000</b>	

ORDINANCE NO. 17-18

AN ORDINANCE TO AMEND SECTION 90-32 OF THE CODE OF THE CITY OF  
WYOMING BY ADDING SUBSECTION (117) TO CONDITIONALLY REZONE  
5189 BYRON CENTER AVE SW FROM R-1 TO RO-1

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 90-32 of the Code of the City of Wyoming is amended by adding subsection (117) to read as follows:

- (117) To conditionally rezone the following described property at 5189 Byron Center Ave SW from R-1 Residential to RO-1 (Restricted Office), subject to the terms and conditions of the Conditional Rezoning Contract dated as of November 19, 2018, among the City of Wyoming, BCH Holding Company, L.L.C. and Maas Plat Group, LLC, a copy of which is attached as Exhibit A.

Part of the Southeast one-quarter of Section 28, Town 06 North, Range 12 West, City of Wyoming, Kent County, Michigan, described as follows: COMMENCING at the Southeast corner of said Section 28, thence North 01°48'30" West 50.05 feet along the East line of said section; thence North 89°22'21" West 75.05 feet along the North line of 52nd Street to the TRUE PLACE OF BEGINNING; thence continuing North 89°22'21" West 276.87 feet along said North line to the Southeast corner of Lot 48, Golf View Estates No. 2; thence North 12°59'33" East 291.56 feet along East line of said Golf View Estates No.2, to the Southwest corner of Lot 29, Golf View Estates; thence North 87°28'16" East 227.20 feet (recorded as North 87°30'00" East 227.13 feet) along the South line of said Gold View Estates; thence South 01°47'39" East 272.58 feet (recorded as South 01°48'30" East 272.46 feet) along the West line of Byron Center Avenue; thence South 44°24'34" West 34.60 feet to the place of beginning.

Section 2. This ordinance shall take effect upon the later of 15 days after its adoption or upon publication as required by applicable law.

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Kelli A. VandenBerg  
Wyoming City Clerk

Exhibit A  
**CONDITIONAL REZONING CONTRACT**

This Conditional Rezoning Contract is made as of November 19, 2018, between the City of Wyoming, a Michigan municipal corporation of 1155 28<sup>th</sup> Street SW, Wyoming, MI 49509 (the "**City**"), BCH Holding Company, L.L.C., a Michigan limited liability company of 386 Big Bay Drive, Holland, MI 49424 ("**BCH**"), and Maas Plat Group, LLC, a Michigan limited liability company of 3510 Apache Ct. SW, Grandville, MI 49418 ("**MAAS**").

RECITALS

A. BCH owns the following described approximately 1.755 acres of real property located at 5189 Byron Center Avenue SW in the City, parcel number 41-17-28-478-024 (the "**Property**") that BCH and MAAS wish to develop either as one-story (with possible use of a lower level) medical or other professional office building (the "**Desired Use**").

Part of the Southeast one-quarter of Section 28, Town 06 North, Range 12 West, City of Wyoming, Kent County, Michigan, described as follows: COMMENCING at the Southeast corner of said Section 28, thence North 01°48'30" West 50.05 feet along the East line of said section; thence North 89°22'21" West 75.05 feet along the North line of 52nd Street to the TRUE PLACE OF BEGINNING; thence continuing North 89°22'21" West 276.87 feet along said North line to the Southeast corner of Lot 48, Golf View Estates No. 2; thence North 12°59'33" East 291.56 feet along East line of said Golf View Estates No.2, to the Southwest corner of Lot 29, Golf View Estates; thence North 87°28'16" East 227.20 feet (recorded as North 87°30'00" East 227.13 feet) along the South line of said Gold View Estates; thence South 01°47'39" East 272.58 feet (recorded as South 01°48'30" East 272.46 feet) along the West line of Byron Center Avenue; thence South 44°24'34" West 34.60 feet to the place of beginning.

B. Under the City's zoning ordinance, *i.e.*, Chapter 90 of the Code of Ordinances, City of Wyoming, Michigan (the "**Zoning Ordinance**"), the Desired Use is not allowed in the R-1 Residential zoning district in which the Property is currently located so about September 13, 2018, BCH and MAAS applied to rezone the Property to the RO-1 Restricted Office zoning district but voluntarily offered certain conditions (stated in section 1 below) to the proposed rezoning to ensure the Property as developed will be compatible with adjacent and nearby uses.

C. In accordance with section 405 of the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3405, following a duly notice of public hearing, the Planning Commission recommended the conditional rezoning of the Property on October 16, 2018 and the City Council approved the rezoning of the Property to the RO-1 Restricted Office zoning district subject to the conditions and other terms stated in this Contract by Ordinance No. \_\_\_\_\_ adopted on November 19, 2018 (the "**Rezoning**").

TERMS AND CONDITIONS

In exchange for the consideration in and referred to by this Contract, the parties agree:

1. **Rezoning Conditions.** BCH and MAAS offered the following conditions to the Rezoning and the City Council by approving the Rezoning and this Contract has accepted and conditioned the Rezoning on compliance with the following conditions (the "**Rezoning Conditions**"):

A. Use of the Property is limited to only the principal permitted uses currently allowed in the R0-1 Restricted Office zoning district – *i.e.*, (i) office buildings for any of the following occupations: executive, administrative, professional, accounting, clerical, stenographic, drafting, and office equipment and supply sales ("**Professional Offices**"), (ii) medical offices, including clinics ("**Medical Offices**") and financial institutions. The Property shall not be developed, occupied or used for uses currently allowed by special approval in the RO-1 Restricted Office zoning district (*i.e.*, uses currently permitted in the B-1 Business zoning district) or with any drive-through use, including without limitation any drive-through window for a financial institution, drive through pharmacy, or other drive-through use.

B. The building on the Property shall meet the following dimensional requirements and characteristics:

1. The building and parking shall be set back a minimum of 35 feet from the north property line and

a minimum of 30 feet from the west property line of the Property.

2. The earth grade at the back and side of the building will not exceed 5-feet above existing grade along the north and west property lines. If the building exterior wall needs to be extended to accomplish this, the wall will be constructed with the same building siding material as the building wall from which it is extending.

3. The main floor of the building will be a maximum footprint of 15,000 square if the use is for a Medical Office and 18,000 square feet if the use is for a Professional Office. The building will be a single-story structure with a possible lower level.

4. Roof runoff will be directed to the storm sewer system.

C. A 5-foot high black vinyl coated chain link fence will be placed on the West and North property lines of the Property, subject to clear vision requirements, during the construction of the office building and before issuance of any certificate of occupancy

D. Evergreen trees, 6 to 8 feet in height, will be planted between the North and West property lines of the Property and building and parking areas in a staggered row, 20-feet on center. Replacement of dead or diseased trees will be the responsibility of the office building owner.

E. Site lighting will be limited to 20-foot high poles with cut-off type fixtures.

## 2. Noncompliance Consequences and Remedies.

A. A violation of any of the Rezoning Conditions will constitute a violation of the Zoning Ordinance and may be addressed in any manner allowed for any other violation of the Zoning Ordinance. Unless a suspected violation may be an imminent threat to the public health, safety or general welfare, or unless there have been repeated violations at the subject property, it has been the City's practice for City officials to notify property owners and occupants of a suspected violation of the Zoning Ordinance and provide property owners and occupants an opportunity to cure that violation before undertaking any other enforcement actions. The City does not have a current intention to alter that practice.

B. If either a court of competent jurisdiction or the City Council, after notice to the owner of the Property and an opportunity for the owner of the Property to address the alleged violations in writing and in person to the City Council before the City Council makes its determination, determine that a violation of the Rezoning Conditions occurred, the City Council may by resolution determine the zoning of the Property shall revert to the R-1 Residential zoning district.

## 3. Term.

A. This Contract shall take effect upon the effective date of the Rezoning.

B. If the zoning conditions of this contract are met, the rezoning approved pursuant to this contract shall be perpetually in effect, running with the land.

C. Upon request by property owner, this Contract may be amended only if such an amendment is approved by the City Council following a recommendation of the City Planning Commission. No public hearing shall be required to amend or terminate this Contract.

D. This Contract shall terminate and the zoning of Property shall be automatically returned to the R-1 Residential zoning district if the Desired Use is not constructed and certificate of occupancy issued by December 31, 2028.

## 4. General Provisions.

A. Any notice, request or other communication given pursuant to this Contract to either party shall be in writing and shall be deemed given when (i) delivered personally, (ii) when actually delivered by FedEx, UPS, United State Postal Service or similar delivery service, or (iii) when delivered and acknowledged by e-mail to the other party at the addresses first set forth above, unless the other party has designated in writing a different address for the serving of notices by a notice given in compliance with this subsection.

B. This is the entire agreement between the parties as to its subject matter. It may not be amended or modified except in writing signed by both parties. It shall not be affected by any course of dealing and the

waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other provision.

C. This Contract was made in Kent County, Michigan and the rights and obligations of the parties under this Contract shall be governed by and construed in accordance with the laws of the state of Michigan.

D. The captions are for reference only and shall not affect the interpretation of this Contract. However, the recitals are an integral part of this Contract.

E. This Contract is binding upon the parties, on all succeeding owners and occupants of the Property, and on any successors and assigns of the parties.

F. This Contract shall be enforceable only by the parties, all succeeding owners and occupants of the Property, and any successors and assigns of the parties. No other person shall have the right to enforce any provision.

G. No delay on the part of either party in the exercise of any right or remedy shall operate to waive that right or any other right and a waiver of a right or remedy on any one occasion shall not bar or waive that right or remedy for a subsequent breach of the same or any other provision of this Contract.

H. To the extent permitted by law, the jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Contract shall be solely in the state courts in Kent County, Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, without limitation, actual, reasonable filing fees, legal fees, expert fees, discovery expenses and other costs incurred to investigate, bring, maintain or defend any such action for its first accrual or first notice thereof through all appellate and collection proceedings.

I. A copy of this Contract shall be recorded with the Kent County Register of Deeds.

The parties have signed this Contract as of the date first written above.

CITY OF WYOMING

STATE OF MICHIGAN  
COUNTY OF KENT

By: \_\_\_\_\_  
Jack A. Poll, Mayor

On \_\_\_\_\_, 2018, Jack A. Poll and Kelli A. VandenBerg, known to me as the Mayor and Clerk, respectively for the City of Wyoming, acknowledged their signatures before me.

By: \_\_\_\_\_  
Kelli A. VandenBerg, City Clerk

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, MI  
Acting in Kent County, MI  
My commission expires: \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Scott G. Smith, City Attorney

BCH HOLDING COMPANY, L.L.C.

STATE OF MICHIGAN  
COUNTY OF OTTAWA

By: \_\_\_\_\_  
Clarence J. Cole, Jr., Managing Member

On \_\_\_\_\_, 2018, Clarence J. Cole, Jr., known to me as a managing member of BCH Holding Co., L.L.C. acknowledged his signature before me.

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, MI  
Acting in \_\_\_\_\_ County, MI  
My commission expires: \_\_\_\_\_

By: \_\_\_\_\_  
David B. Baker, Managing Member

STATE OF MICHIGAN  
COUNTY OF KENT

On \_\_\_\_\_, 2018, David B. Baker, known to me as a managing member of BCH Holding Co., L.L.C. acknowledged his signature before me.

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, MI  
Acting in \_\_\_\_\_ County, MI  
My commission expires: \_\_\_\_\_

MAAS PLAT GROUP, LLC

STATE OF MICHIGAN  
COUNTY OF KENT

By: \_\_\_\_\_  
Steve L. Maas, Member

On \_\_\_\_\_, 2018, Steven L. Maas known to me as a member of Maas Plat Group, LLC acknowledged his signature before me.

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, MI  
Acting in \_\_\_\_\_ County, MI  
My commission expires: \_\_\_\_\_

**No state or county transfer tax is due because no interest is conveyed by this document.**

Drafted by:  
Scott G. Smith, City Attorney  
City of Wyoming  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

When recorded, return to:  
Kelli A. VandenBerg, City Clerk  
City of Wyoming  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

October 25, 2018

Ms. Kelli A. VandenBerg  
City Clerk  
Wyoming, MI

Subject: Request to conditionally rezone 1.75 acres from R-1 Residential to RO-1 Restricted Office. The property is located at 5189 Byron Center Avenue SW. (Section 28) (BCH Holding, LLC)

Recommendation: To approve the subject conditional rezoning request.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on October 16, 2018. A motion was made by DeLange, supported by Weller, to recommend to the City Council approval of the conditional rezoning, as proposed by the applicant and stipulated in the Conditional Rezoning Contract draft dated October 9, 2018. The motion passed 5-3 following discussion. A detailed review of the request is available in the attached Planning Commission minutes. Following please find some background and other pertinent information.

The subject property is owned by BCH Holding LLC. The landowner wishes to sell the land to a developer for the purpose of developing a business or professional office, uses not permitted in the current R-1 zoning designation. Under the Michigan Zoning Enabling Act, an applicant may voluntarily offer conditions to be attached to a requested rezoning, making it more restrictive than would otherwise be the case. If approved, the agreed upon conditions are recorded as deed restrictions on the property.

In this case, the applicant has proposed a conditional rezoning contract with dimensional, use, and design restrictions intended to minimize potential nuisances and land use conflicts. Specifically, the contract limits the use of the subject property to only the permitted uses under an RO-1 zone district and precludes any developer from uses allowed by special use approval, including establishments with a drive thru. A full list of the conditions contained in the proposed contract can be found under "Terms and Conditions" in the attached Conditional Rezoning Contract dated October 9, 2018.



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

**Jack A. Poll, Mayor**

As part of the request, the applicant also submitted conceptual site plans to illustrate the development of a business office contrasted with a medical office following the setback and buffer restrictions proposed in the contract. If the conditional rezoning is approved by City Council, a detailed site plan meeting all ordinance requirements would need to be submitted to the Planning Commission for approval prior to any development.

During the Planning Commission meeting a number of residents spoke against the proposed rezoning. Please refer to the Planning Commission minutes for a detailed summary of the comments received.

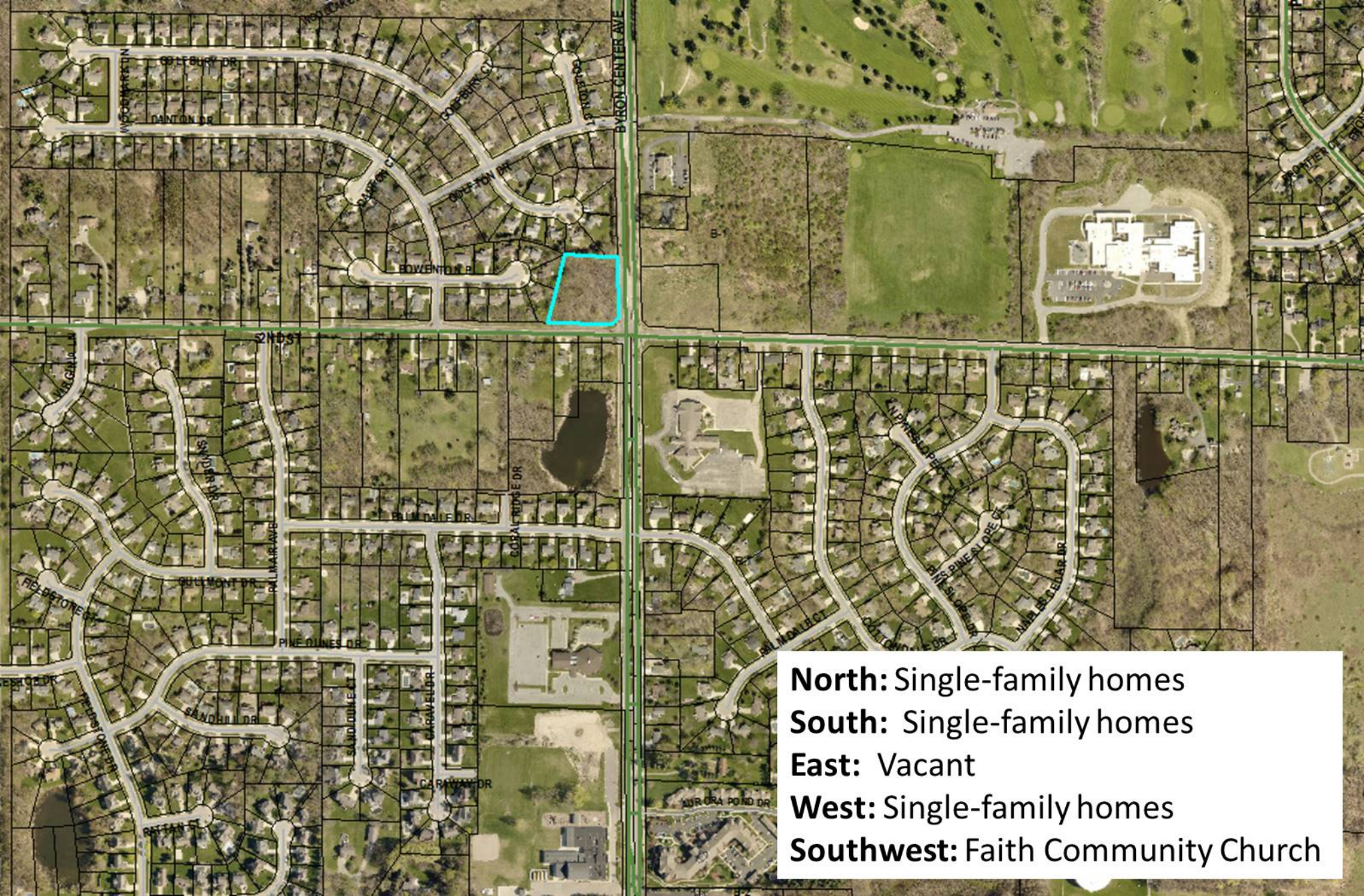
Prior to the October 16, 2018 Planning Commission meeting a petition against the subject rezoning was submitted to the City. The petition was signed by 95 residents. The petition does meet the threshold and definition of a protest petition and triggers the need for a super majority vote. Please refer to the attached memo from the City Attorney highlighting this and other legal discussions related to this rezoning request.

Respectfully submitted,

Nicole Hofert, City Planner  
Department of Community Services

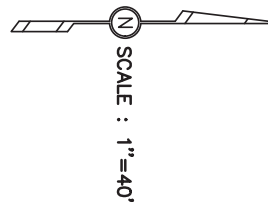
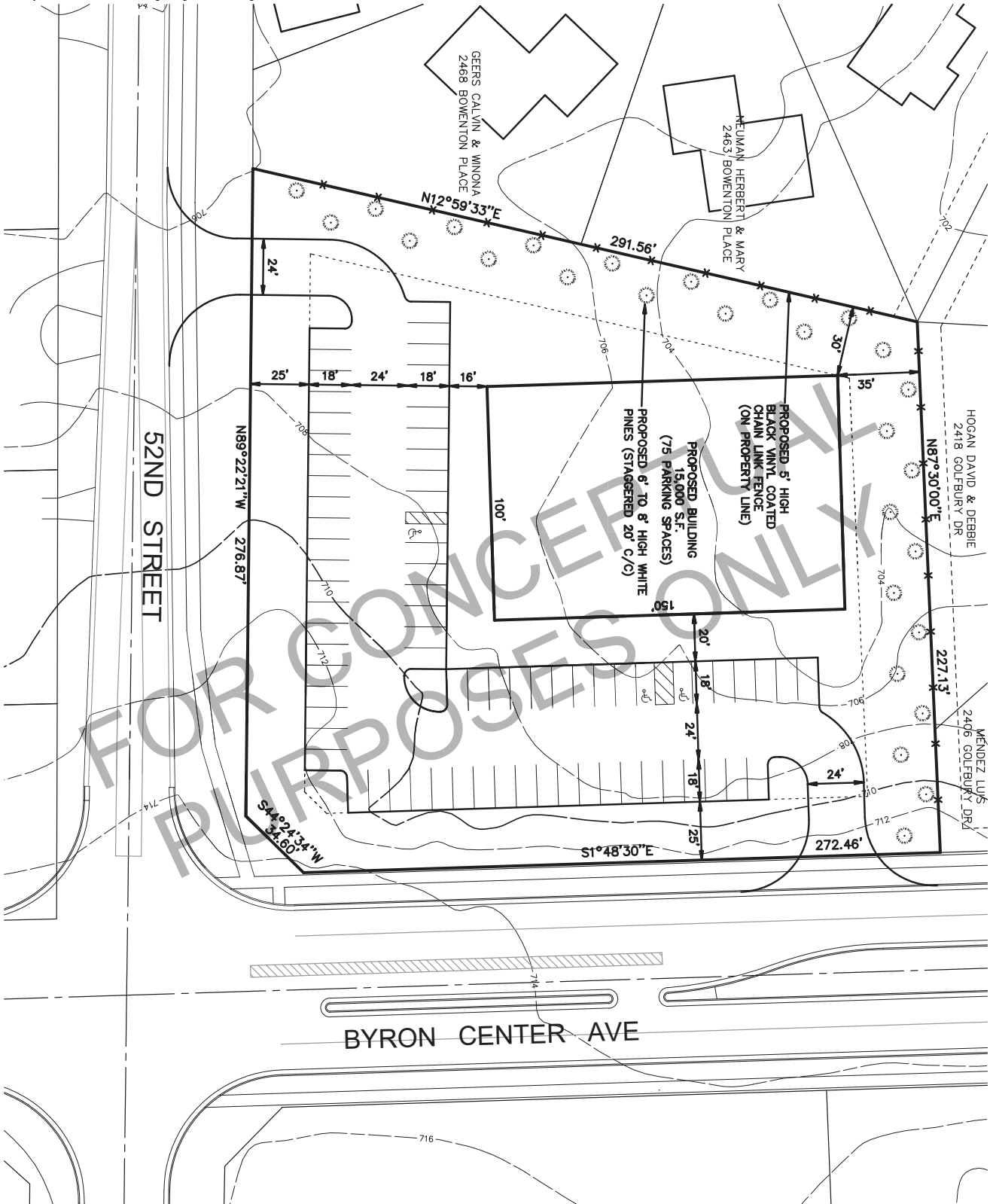
Cc: Curtis Holt, City Manager  
Rebecca Rynbrandt, Director of Community Services





**North:** Single-family homes  
**South:** Single-family homes  
**East:** Vacant  
**West:** Single-family homes  
**Southwest:** Faith Community Church





**MEDICAL OFFICE OPTION**

10-11-18 REVISED FENCE LOCATION (mk)

**5189 BYRON CENTER AVE SW**

#171639E



**exxel engineering, inc.**  
planners • engineers • surveyors

FOR : BCH HOLDING COMPANY LLC  
386 BIG BAY DRIVE  
HOLLAND, MI 49424

IN : PART OF SECTION 28, T6N, R12W,  
CITY OF WYOMING, KENT COUNTY, MICHIGAN

5252 Clyde Park, S.W. • Grand Rapids, MI 49509  
Phone: (616) 531-3660 Fax: (616) 531-2121  
www.exxelengineering.com

THESE MINUTES ARE SUBJECT TO FORMAL APPROVAL BY THE WYOMING  
PLANNING COMMISSION AT ITS REGULAR MEETING OF NOVEMBER 20, 2018

PLANNING COMMISSION  
MEETING MINUTES OF OCTOBER 16, 2018  
CITY COUNCIL CHAMBERS  
CITY OF WYOMING, MICHIGAN

MEMBERS PRESENT: Arnoys, Bueche, DeLange, Goodheart, Hegyi, Smart, Spencer,  
Weller

MEMBERS ABSENT: Micele

STAFF PRESENT: Rynbrandt, Community Services Director  
Hofert, City Planner  
Lucar, Planning & Development Dept.  
Smith, City Attorney  
Oonk, Engineering Department

Chair Spencer called the meeting to order at 7:00 PM.

Motion by Hegyi, supported by Smart, to excuse Micele. Motion carried unanimously.

APPROVAL OF MINUTES

The minutes of September 18, 2018 were approved as written.

APPROVAL OF AGENDA

The agenda was approved as presented.

PUBLIC COMMENT ON NON-PUBLIC HEARING AGENDA ITEMS

There was no public comment.

AGENDA ITEM NO. 1

Request to Rezone from R-1, Single Family Residential, to RO-1, Restricted Office. The property is located at 5189 Byron Center Avenue. (Section 28) (BCH Holding, LLC)

Hofert described the location, existing land use and current zoning around the area. The RO-1 District is primarily an office district. However, it also allows, through special approval, those uses permitted in the B-1 District which include a variety of retail and service uses. In order to minimize potential nuisances and land use conflicts, the applicant is proposing a conditional

rezoning. Under the Michigan Zoning Enabling Act, an applicant may voluntarily offer conditions to be attached to a requested rezoning, making it more restrictive than would otherwise be the case. If approved, the agreed upon conditions are recorded as deed restrictions on the property.

In this case, the applicant has proposed to limit the use of the subject property to the “permitted uses under the RO-1 zoning district. Special uses and uses with drive thru are not allowed.” As a result, the use of the property, if rezoned, would be limited to business and professional offices, medical offices and clinics, and financial institutions, as well as business equipment and supply retail sales. In addition to restricting the use of the site, the applicant is proposing more restrictive setback and screening standards than required for RO-1 and is limiting the size of any future building to 18,000 sq. ft. for a professional office building or 15,000 sq. ft. for a medical office building.

Comments:

1. Unlike other zoning procedures such as special use approval, site plan review, or planned unit development, ordinance amendments and rezonings are legislative decisions, not tied to specific standards listed in the ordinance. However, certain factors are commonly considered with respect to rezonings, including:
  - a. *Consistency with the adopted master plan;*  
The City’s Master Plan was last updated in 2006. Much has changed in the City during the intervening 12 years. While the subject property and surrounding area are designated as Low Density Residential on the future land use map, non-residential zoning is also found on the east side of Byron Center and a non-residential use is located on the southeast corner of the intersection.
  - b. *Compatibility of the allowed uses with existing and future land uses;*  
The conventional RO-1 District allows several retail and service uses that might not be compatible with the established single-family residential character of adjacent and surrounding lands. However, the use restrictions offered by the applicant as a condition of the rezoning generally mitigate the potential incompatibility of locating a business next to residential.
  - c. *Capability of the property to be served by public services;*  
There are no apparent service deficiencies that would inhibit the use of the property for offices or be unduly impacted by an office use.
  - d. *Ability of the property to be used as currently zoned; and*  
This is a corner parcel at the intersection of two arterial streets. It is surrounded by single-family lots and homes but has no potential connectivity to the adjacent subdivisions. It is unlikely that this isolated parcel would lend itself to single-family home development.



this proposal could have on the neighborhood. He was very concerned with traffic safety.

Rick Williamson, 5035 Golfbury Court, pointed out the office parking lot will be lit up at night and the neighbors will see this constant beam of light shining into their homes.

Deb Hogan, 2418 Golfbury, is one of the four homes directly abutting this proposal. She noted the corner property is 6-7 feet below street level. They will have to fill the property in order for it to be level with the street. The corner property will ultimately sit higher than their property.

Terry Hendricks lives at the corner of Golfton and Danton Drive. He proposed there be a right turn only onto Byron Center Avenue, with a Michigan turn in place to turn left. The grading should also be sloped away from the property owners. The owner of the office property should have legal responsibility if there are any flooding issues.

Gloria Houtsma, 2489 Golfbury Drive, said she signed the petition opposed to the rezoning. There are plenty of other places to put this office building. There are traffic, flooding and grading concerns with this property.

Tony Houtsma, 2489 Golfbury Drive, said the entrance into their subdivision from Byron Center Avenue has become very dangerous. He did not think there should be an entrance to this property off Byron Center Avenue, only 52<sup>nd</sup> Street.

Nelson Pelletier, 2442 Golfbury Drive, is concerned with traffic and so many people cutting through their subdivision.

Larry Isakson, 2554 Golfbury Drive, said there is property available across the street for this purpose. He also asked if a traffic study has been done recently. He wanted this property to stay residential.

Candace Williamson, 5035 Golfbury Court, said the traffic in this area has increased and she feels like she lives next to a highway. There are other lots available for this use.

Chair Spencer closed the public hearing.

Doug Stalsonburg of Exxel Engineering, representing the petitioner, addressed two items. First, when they began this process, they were advised by former City Planner Tim Cochran to have at least one meeting with the neighbors to inform them of the upcoming plan. They had two meetings at their offices that were well-attended. They informed the neighbors about the plan and tried to work out some safeguards that would be attached to the rezoning. He especially worked with the four neighbors directly abutting the property and thought they were in agreement regarding the plan. In addition to the two meetings, they have also met with the neighbors individually on-site. The conditions listed in the conditional rezoning contract were developed with their input. Second, when the plat was originally developed, the corner property was carved out for a possible fire station site. It was never meant to be developed for residential. His clients are interested in selling the land with the conditions attached to the sale.

Motion by DeLange, supported by Weller, to recommend to the City Council approval of the conditional rezoning, as proposed by the applicant and stipulated in the Conditional Rezoning Contract draft dated October 9, 2018. Discussion followed.

Bueche said he would like to see a site plan with elevations. City Attorney Smith clarified that site plan issues will be addressed later and are not part of the rezoning. On a conditional rezoning, the City cannot add or change any of the conditions that are stipulated in the rezoning contract. They must either recommend approval or denial to City Council.

Chair Spencer asked Mr. Stalsonburg to address the concerns with water flow and topography. Mr. Stalsonburg said, regarding drainage, they have reviewed it with the City Engineering Department and they will be able to tie into the storm sewer at the southwest corner of the property at 52<sup>nd</sup> Street. This property currently drains into the abutting property owners' back yards. When this property is developed, the water will run off the parking lot and into the storm sewer. This will reduce any future problems with water runoff and improve the current drainage situation. City Engineer Oonk agreed. The City is comfortable with the petitioner's proposal. Regarding topography, Mr. Stalsonburg said there is currently 6-8 feet of fall from Byron Center Avenue to the west property line. The site is perfect for a walkout style office building. They may put in fill or they may not.

DeLange confirmed Mr. Stalsonburg's statement that the corner property was originally proposed for a fire station. The City always assumed that this property would not be developed for residential. The office zoning will have the least impact to the neighbors, as opposed to having commercial go in there with less desirable uses. He was very impressed with the rezoning contract and the safeguards in it that will ultimately benefit the neighbors. He believed the office zoning is the best scenario for the neighborhood. Chair Spencer agreed.

Smart did not like the fact that the Commission could not provide any input regarding the rezoning contract. City Attorney Smith said they can still address items in the site plan review process and place conditions on it. Hofert pointed out the only way to place conditions on a rezoning is through a conditional rezoning contract. Hegyi was concerned if the site plan conditions would fit with the conditions stated in the rezoning contract.

Goodheart asked if medical marijuana legislation could have any effect on this office use. City Attorney Smith said the City has opted out of allowing any medical marijuana uses within the city. Hofert pointed out that any future Ordinance changes in this regard would be addressed through the Planning Commission and City Council.

Arnoys asked if a traffic study would be developed. Hofert said it is not required at this time, but can be discussed at the site plan review stage.

Weller mentioned that, with 56<sup>th</sup> Street currently under construction, it has placed more traffic onto 52<sup>nd</sup> Street temporarily. He did not think this corner would ever be developed as residential. The office zoning is the best fit for this corner and will have the least impact on the

neighborhood. Another option would be for the abutting neighbors to pool their resources and buy the property. Mr. Stalsonburg said this option was brought up at the first neighborhood meeting, but the neighbors did not agree on the land value for this property. A corner property at the intersection of two major streets is valuable. Regarding the question of the grade, the contract stipulates in (1)(B)(2) that they cannot raise the grade more than five feet.

Chair Spencer pointed out that owners of property have the right to request rezoning. She would rather see an office here than a less desirable commercial use.

Bueche asked if this would be a two-story building. Hofert replied the contract limits it to a one-story building.

A vote on the motion carried 5 – 3, with Arnoys, Hegyi and Smart opposed.

Hofert noted the City Council would hear the proposal in first reading on November 5<sup>th</sup>.

#### AGENDA ITEM NO. 2

Request for Preliminary Plat – Final Approval for Buck Creek Hill. The property is located at 5361 Burlingame Avenue SW. (Section 34) (EL2 Development, LLC)

Hofert described the location, existing land use and current zoning around the area. The petitioner proposes 24 lots on 7.4 acres developed to R-1 Residential standards (10,000 sq. ft. minimum lot size). This development connects to Burlingame Avenue and aligns with Mulligan Drive to the east. Development of this property as a single family subdivision has been envisioned by the City for a considerable time.

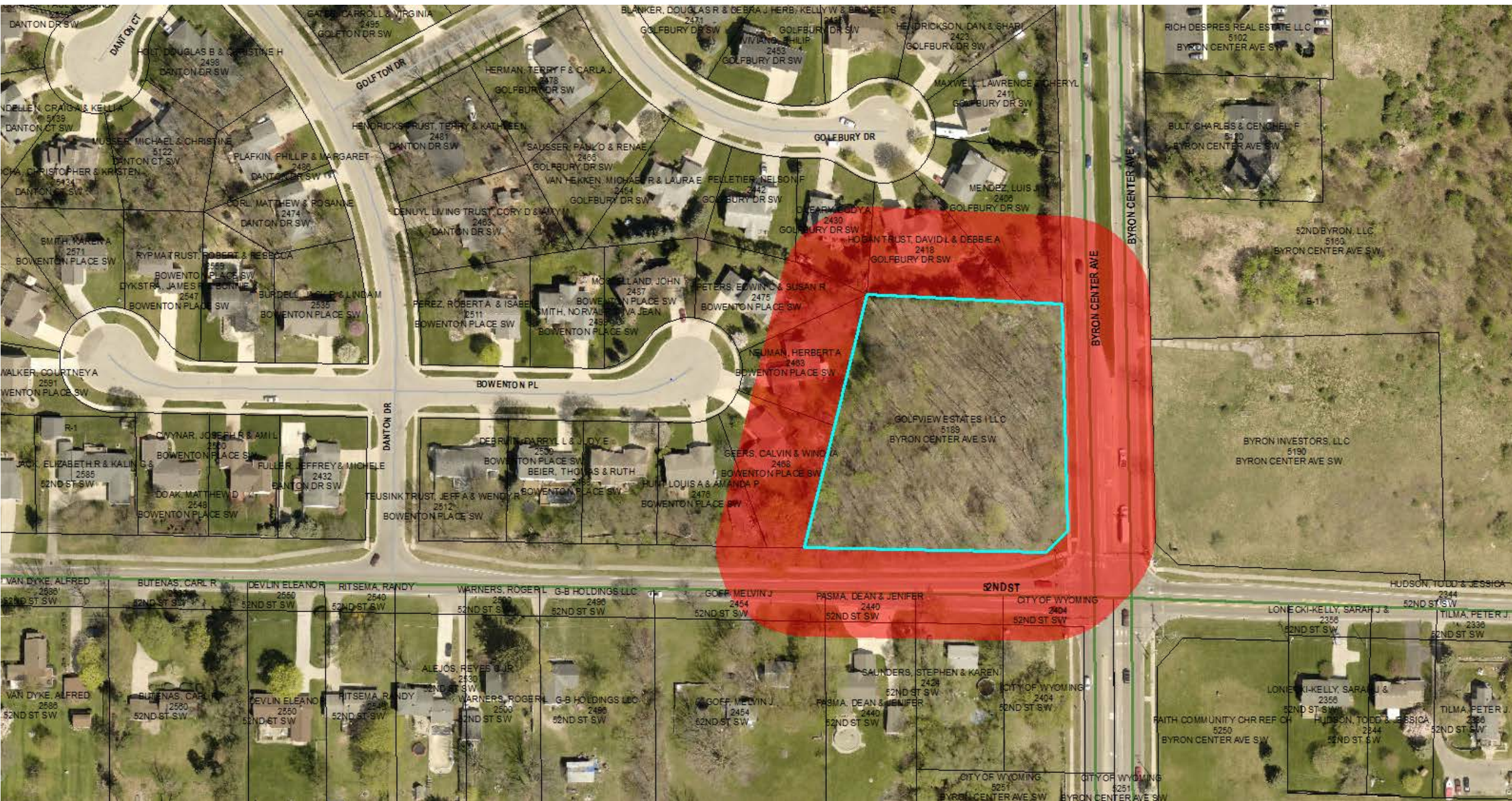
The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation and street layout, with preliminary engineering. Preliminary Plat- Tentative Approval was approved by Planning Commission on March 20, 2018 and City Council on April 2, 2018.

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat. Upon full approval, construction may commence. The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

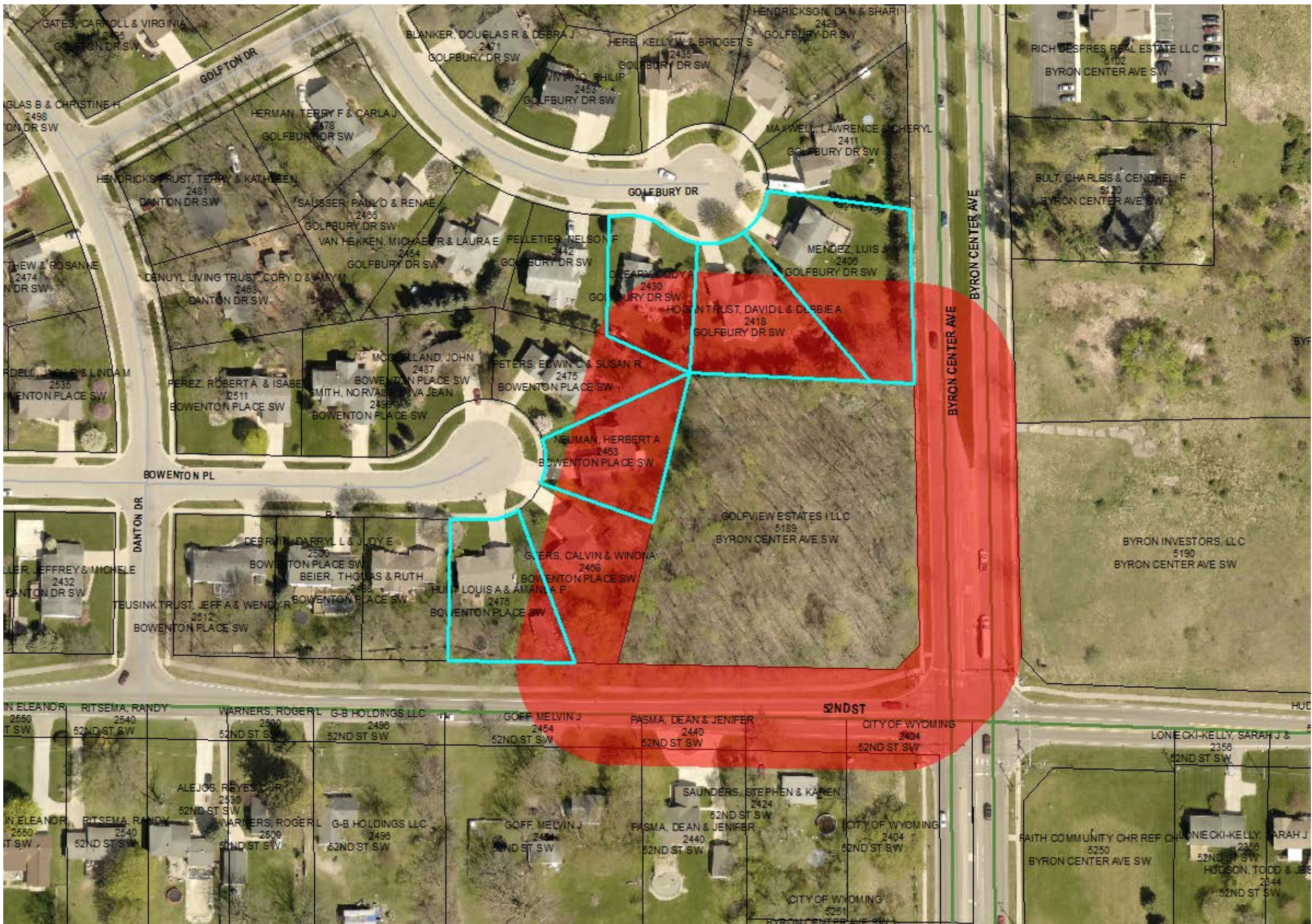
#### Specific Plat Information:

The proposed lots meet or exceed the minimum district requirements, except for the two corner lots, #1 and #24. Section 74-176a(5) of the Subdivision Ordinance requires:

“Corner lots shall be provided an extra 20 feet of width sufficient to permit the maintenance of building setback lines on both the front and side street lines in



Subject property (5189 Byron Center) is highlighted with blue outline.  
The red buffer represents the 100' buffer.



Highlighted properties (blue outline) signed the petition.  
The red buffer represents the 100' buffer.

ORDINANCE NO. 19-18

ORDINANCE TO AMEND CHAPTER 14, ARTICLE VI, OF THE CITY CODE  
TO PROHIBIT RECREATIONAL MARIHUANA ESTABLISHMENTS AND  
MEDICAL MARIHUANA FACILITIES IN THE CITY

**(Adopted as an Emergency Ordinance to Take Immediate Effect)**

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 14, Article VI of the Code of the City of Wyoming, Michigan is amended to read as follows:

ARTICLE VI. – MARIHUANA ESTABLISHMENTS AND FACILITIES.

Sec. 14-451. - Definitions.

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

- (a) *IHRA* means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*
- (b) *Marihuana establishment* means that term as defined in the MRTMA.
- (c) *Marihuana facility* means that term as defined in the MMFLA.
- (d) *MMFLA* means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101 *et seq.*
- (e) *MMMA* means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 *et seq.*
- (f) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 *et seq.*

Sec. 14-452. – Marihuana Establishments and Facilities Prohibited.

- (a) Pursuant to section 6 of the MRTMA marihuana establishments are prohibited within the boundaries of the city.
- (b) Marihuana facilities are prohibited within the boundaries of the city.

Sec. 14-453. – Rights Unaffected by Article.

- (a) Except as specifically provided in section 14-452 prohibiting marihuana establishments, this article shall not affect the rights or privileges of any individual or other person under the MRTMA.

(b) This article does not affect the rights or privileges of a marihuana facility outside the boundaries of the city to engage in activities within the boundaries of the city that it is allowed to engage in under the MMFLA within a municipality that has not authorized marihuana facilities to operate within the municipality.

(c) This article does not affect any rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.

(d) This article does not affect any rights or privileges of any individual or other person under the IHRA.

(e) This article does not affect any rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marihuana.

Sec. 14-454. – Review.

The City Council shall review this article and the prohibitions in section 14-452 following the state’s promulgation of rules pursuant to the MRTMA, but such a review shall occur not later than June 30, 2020.

Section 2. This ordinance shall take immediate effect, having been declared by a 2/3 vote of the City Council to be an emergency in order to be in effect before the effective date of the Michigan Regulation and Taxation of Marihuana Act, 2018 IL \_\_, MCL \_\_ *et seq.* that was enacted by the state’s electors on November 6, 2018, certified by the State Board of Canvassers on November 26, 2018, and takes effect on December 6, 2018.

---

Kelli A. VandenBerg  
Wyoming City Clerk

Ordinance No. 19-18

## Supplemental Staff Report

Date: November 27, 2018  
Subject: Marihuana Ordinance – Ordinance No. 19-18  
From: Scott Smith, City Attorney  
Meeting Date: December 3, 2018

---

A memo dated November 14, 2018 previously advised you concerning proposed Ordinance No. 19-18 which the Council introduced with a first reading on November 19, 2018.

On Monday, November 26, 2018 the State Board of Canvassers certified the results of the November 6, 2018 general election. Accordingly, the Michigan Regulation and Taxation of Marihuana Act, 2018 IL \_\_, takes effect December 6, 2018. A recent news report indicated state regulators may have applications for recreational marihuana facilities available before or when the MRTMA takes effect.

Accordingly, we have modified section 2 of the proposed Ordinance 19-18 enabling the City Council to adopt it as an emergency ordinance to take immediate effect. That will require a 2/3 super-majority for approval.

## Supplemental Staff Report

Date: November 27, 2018  
Subject: Marihuana Ordinance – Ordinance No. 19-18  
From: Scott Smith, City Attorney  
Meeting Date: December 3, 2018

---

A memo dated November 14, 2018 previously advised you concerning proposed Ordinance No. 19-18 which the Council introduced with a first reading on November 19, 2018.

On Monday, November 26, 2018 the State Board of Canvassers certified the results of the November 6, 2018 general election. Accordingly, the Michigan Regulation and Taxation of Marihuana Act, 2018 IL \_\_, takes effect December 6, 2018. A recent news report indicated state regulators may have applications for recreational marihuana facilities available before or when the MRTMA takes effect.

Accordingly, we have modified section 2 of the proposed Ordinance 19-18 enabling the City Council to adopt it as an emergency ordinance to take immediate effect. That will require a 2/3 super-majority for approval.

ORDINANCE NO. 20-18

ORDINANCE TO REPEAL SECTION 50-162 AND TO AMEND CHAPTER 50,  
ARTICLE V, DIVISION 2, OF THE CITY CODE TO PROHIBIT USE OF MARIHUANA  
BY UNDERAGE PERSONS OR IN PUBLIC PLACES AND TO PROHIBIT  
POSSESSION AND USE OF DRUG PARAPHERNALIA IN THE CITY

**(Adopted as an Emergency Ordinance to Take Immediate Effect)**

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 50-162 of the Code of the City of Wyoming, Michigan, entitled "Possession and Use of Marijuana," is repealed.

Section 2. That Chapter 50, Article V, Division 2, of the Code of the City of Wyoming, Michigan is amended to read as follows:

**DIVISION 2. – MARIHUANA AND CONTROLLED SUBSTANCE OFFENSES.**

**Sec. 50-186. - Definitions.**

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

(a) *Controlled substance* means that term as defined in section 7104 of the Public Health Code, 1978 PA 368, MCL 333.7104.

(b) *Cultivate* means that term as defined in section 3 of the MRTMA.

(c) *Drug paraphernalia* means that term as defined in section 7451 of the Public Health Code, 1978 PA 368, MCL 333.7451. *Drug paraphernalia* does not include marihuana accessories.

(d) *IHRA* means the Industrial Hemp Research Act, 2014 PA 547, MCL 286.841 *et seq.*

(e) *Marihuana (or marijuana)*:

(1) When cultivated, possessed, conveyed, stored, transported, transferred, processed, sold, or used in accordance with the MMFLA or MMMA means that term as defined section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

(2) Except as provided in subsection 50-186(e)(1), means that term as defined in section 3 of the MRTMA.

(f) *Marihuana accessories* means that term as defined in section 3 of the MRTMA.

(g) *Marihuana concentrate* means that term as defined in section 3 of the MRTMA

(h) *Marihuana establishment* means that term as defined in the MRTMA.

(i) *Marihuana facility* means that term as defined in the MMFLA.

(j) *Marihuana-infused product*:

(1) When possessed, conveyed, stored, transported, transferred, processed, sold, or used in accordance with the MMFLA or MMMA means that term as defined in subsection 102(k) of the MMFLA, MCL 333.17102(k).

(2) Except as provided in subsection 50-186(j)(1), means that term as defined in the MRTMA.

(k) *MMFLA* means the Medical Marihuana Facilities Licensing Act, 2016 PA 281, MCL 333.27101 *et seq.*

(l) *MMMA* means the Michigan Medical Marihuana Act, 2008 IL 1, MCL 333.26421 *et seq.*

(m) *MRTMA* means the Michigan Regulation and Taxation of Marihuana Act, 2018 IL 1, MCL 333.27951 *et seq.*

(n) *Registered primary caregiver* means that term as used in the MMMA.

(o) *Registered qualifying patient* means a person who is a registered qualifying patient under the MMMA.

**Sec. 50-187. – Persons Under 21 Years of Age – Prohibited Acts.**

(a) It is unlawful for any person who is under 21 years of age who is not a registered qualifying patient to knowingly obtain, cultivate, process, sell, use, possess, transfer or transport marihuana, marihuana-infused products, marihuana concentrate or marihuana accessories.

(b) It is unlawful for any person who is under 21 years of age who is a registered qualifying patient to knowingly obtain, cultivate, process, sell, use, possess, transfer or transport marihuana, marihuana-infused products, marihuana concentrate or marihuana accessories except in compliance with the MMMA.

**Sec. 50-188. – Other Persons – Prohibited Acts.**

(a) It is unlawful to use or to possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this article or other applicable law.

(b) It is unlawful to deliver or possess with intent to deliver drug paraphernalia knowing, or under circumstances where one should reasonably know, that it will be used plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this article or other applicable law.

(c) It is unlawful to deliver or possess with intent to deliver marihuana, marihuana-infused products, marihuana concentrate or marihuana accessories to any person under 21 years of age. However, it shall not be a violation of this subsection for a registered primary caregiver to deliver or possess with intent to deliver marihuana, marihuana-infused products, marihuana concentrate or marihuana accessories to a registered qualifying patient as provided in the MMMA.

(d) It is unlawful to consume marihuana in a public place.

(e) It is unlawful to smoke marihuana where prohibited by the individual or other person who owns, occupies, or manages the property.

(f) Except as otherwise provided by applicable law, it is unlawful to cultivate marihuana plants where the plants are visible from a public place without the use of binoculars, aircraft, or other optical aids or outside of an enclosed area equipped with locks or other functioning security devices that restrict access to the area.

(g) It is unlawful to consume marihuana while operating, navigating, or being in physical control of any motor vehicle, aircraft, snowmobile, off-road recreational vehicle, or motorboat.

(h) It is unlawful to smoke marihuana within the passenger area of a vehicle upon any public way.

(i) It is unlawful to possess marihuana accessories or to possess or use marihuana on the grounds of any public or private school where children attend classes in preschool programs, kindergarten programs, or grades 1 through 12, in a school bus, or on the grounds of any correctional facility.

(j) It is unlawful to separate marihuana concentrate by butane extraction or another method that utilizes a substance with a flashpoint below 100 degrees Fahrenheit in any public place, motor vehicle, or within the curtilage of a residential structure.

(k) Except as otherwise provided by applicable law, it is unlawful to possess more than 2.5 ounces of marihuana within a person's place of residence unless the excess marihuana is stored in a container or area equipped with locks or other functioning security devices that restrict access to the container or area.

**Sec. 50-189. – Exceptions; Rights Unaffected by Article.**

(a) This division does not preclude a law enforcement officer or official who, in the course of official duties, is required to perform certain acts in the investigation and enforcement of laws related to illegal drug activities.

(b) This division does not preclude properly licensed, registered and certified medical, dental, psychiatric, psychological and pharmacy personnel and facilities from otherwise lawful acts undertaken when acting in their practices in accordance with laws, rules and regulations applicable to that practice.

(c) This division shall not affect the rights or privileges of any individual or other person under the MRTMA.

(d) This division does not affect the rights or privileges of a marihuana facility outside the boundaries of the city to engage in activities within the boundaries of the city that it is allowed to engage in under the MMFLA within a municipality that has not authorized marihuana facilities to operate within the municipality.

(e) This division does not affect any rights or privileges of registered qualifying patients or registered primary caregivers under the MMMA or the MMFLA.

(f) This division does not affect any rights or privileges of any individual or other person under the IHRA.

(g) This division does not affect any rights or privileges of any individual or other person under any other federal or state law, rule or regulation related to the medical use of marihuana.

**Sec. 50-190. – Penalties.**

(a) Violations of this division are misdemeanors that, except as provided in subsection (b), are punishable as provided in section 1-26 of this Code of Ordinances, City of Wyoming, Michigan.

(b) When any person who has not previously been convicted of any offense under this division, under sections 50-161 or 50-163 of division 1 of this article, under article 7 of the Public Health Code, 1978 PA 368, MCL 333.7101 through 333.7545, or under any statute of the United States or of any state relating to narcotic drugs, cocoa leaves, marihuana, or stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession or use of a controlled substance or marihuana in violation of this division, the court, may sentence that person in accordance with the terms and conditions of section 7411 of the Public Health Code, 1978 PA 368, MCL 333.7411.

Section 2. This ordinance shall take immediate effect, having been declared by a 2/3 vote of the City Council to be an emergency in order to comply with the Michigan Regulation and Taxation of Marihuana Act, 2018 IL \_\_, MCL \_\_ *et seq.* enacted by the state's electors on November 6, 2018, certified by the State Board of Canvassers on November 26, 2018, and taking effect on December 6, 2018.

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Kelli A. VandenBerg  
Wyoming City Clerk

## STAFF REPORT

Date: November 27, 2018  
Subject: Drug Ordinance Amendment – Ordinance No. 20-18  
From: Scott Smith, City Attorney  
Meeting Date: December 3, 2018

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### Background:

On Tuesday, November 6, 2018, the state's electorate approved Proposal 1 that enacted the Michigan Regulation and Taxation of Marihuana Act, 2018 IL \_\_\_ (the "MRTMA") that allows persons 21 years old and older to cultivate, possess, process, and use marihuana, marihuana-infused products, and marihuana accessories. In addition, other statutes allow registered qualifying patients who are under 21 years old to cultivate, possess, process and use marihuana for medical purposes.

### Recommendation:

Currently, City ordinances prohibit personal activities that will be legal under the MRTMA.<sup>1</sup> Amendment of those provisions is proposed to comply with the MRTMA while continuing to provide appropriate

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<sup>1</sup> The current City ordinance provisions are as follows. The current drug paraphernalia definition is taken almost verbatim from the Michigan Public Health Code and so the proposed amendment just refers to, rather than recites, that statutory definition.

#### **Sec. 50-162. - Possession and use of marihuana.**

(a) As used in this section the following definitions shall apply:

(1) *Marihuana (marijuana)* means that term as defined in section 7106 of the Public Health Code of the State of Michigan, PA 368 of 1978, MCL 333.7106(4) as amended.

(2) Useable marihuana (marijuana) means that term as defined in section 26423 of the Public Health Code, MCL 333.26423(k) as amended.

(b) It shall be unlawful for any person who has not obtained a license from the State Board of Pharmacy as required by Act 368 of the Public Acts of the State of Michigan of 1978, MCL 333.7101 et seq., as amended, or does not possess a valid registry identification card and is in full compliance with the Michigan Medical Marihuana Act, Initiated Law 1 of 2008, MCL 333.26421 et seq., as amended, to knowingly possess or use marihuana (marijuana).

(c) When any person who has not previously been convicted of any offense under this Code, or under the controlled substances provisions of the Public Health Code of 1978, as amended, or under any statute of the United States or of any state relating to narcotic drugs, cocoa leaves, marihuana, or stimulant, depressant or hallucinogenic drugs, pleads guilty to or is found guilty of possession or use of marihuana, the court, may sentence that person in accordance with the terms and conditions of section 7411 of the Public Health Code, MCL 333.7411, as amended.

(d) A person shall not transport or possess usable marihuana (marijuana) as defined in section 26423 of the Public Health Code, 1978 PA 368, MCL 333.26423, in or upon a motor vehicle or any self-propelled vehicle designed for land travel unless the usable marihuana (marijuana) is one or more of the following:

(1) Enclosed in a case that is carried in the trunk of the vehicle.

(2) Enclosed in a case that is not readily accessible from the interior of the vehicle, if the vehicle in which the person is traveling does not have a trunk.

#### **Sec. 50-186. - Definitions.**

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

*Drug paraphernalia* means all equipment, products and materials of any kind which are used, intended for use, or designed for use, in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling, or otherwise introducing into the human body a controlled substance as provided for in Act No. 368 of the Public Acts of Michigan of 1978 (MCL 333.7101 et seq., MSA 14.15(7101) et seq.), as amended. It includes, but is not limited to:

(1) Kits used, intended for use, or designed for use in planting, propagating, cultivating, growing or harvesting of any species of plant which is a controlled substance or from which a controlled substance can be derived;

(2) Kits used, intended for use, or designed for use in manufacturing, compounding, converting, producing, processing, or preparing controlled substances;

(3) Isomerization devices used, intended for use, or designed for use in increasing the potency of any species of plant which is a controlled substance;

(4) Testing equipment used, intended for use, or designed for use in identifying, or in analyzing the strength, effectiveness or purity of controlled substances;

(5) Scales and balances used, intended for use, or designed for use in weighing or measuring controlled substances;

local law enforcement tools to use in addressing drug-related issues.<sup>2</sup> The proposed amendments have been reviewed by the City Police Department command staff, by Sluiter, Van Gessel & Carlson, and by the City Administration.

We are also recommending that you approve this ordinance by a 2/3 vote and give it immediate effect as an emergency ordinance to ensure our local ordinance complies with the MRTMA which takes effect on December 6, 2018.

Sustainability Criteria:

Environmental Quality – Approval will prevent smoking of marihuana in public places and will require any marihuana cultivation to be out of public sight.

Social Equity – Approval will prohibit the possession or use of marihuana and marihuana-related products and items by persons under 21 years old, essentially treating marihuana like alcohol.

Economic Strength – Approval will enable the City to address drug use related concerns in a manner consistent with existing state law.

Quality Customer Service – Approval will make it clear individuals may exercise the marihuana rights approved by the electors on November 6, 2018.

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- (6) Diluents and adulterants, such as quinine hydrochloride, mannitol, mannite, dextrose and lactose, used, intended for use, or designed for use in cutting controlled substances;
  - (7) Separation gins and sifters used, intended for use, or designed for use in removing twigs and seeds from, or in otherwise cleaning or refining, marihuana;
  - (8) Blenders, bowls, containers, spoons and mixing devices used, intended for use, or designed for use in compounding controlled substances;
  - (9) Capsules, balloons, envelopes and other containers used, intended for use, or designed for use in packaging small quantities of controlled substances;
  - (10) Containers and other objects used, intended for use, or designed for use in storing or concealing controlled substances;
  - (11) Hypodermic syringes, needles and other objects used, intended for use, or designed for use in parenterally injecting controlled substances into the human body;
  - (12) Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing marihuana, cocaine, hashish, or hashish oil into the human body, such as:
    - a. Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads, or punctured metal bowls;
    - b. Water pipes;
    - c. Carburetion tubes and devices;
    - d. Smoking and carburetion masks;
    - e. Roach clips, which are objects used to hold burning material, such as a marihuana cigarette, that has become too small or too short to be held in the hand;
    - f. Miniature cocaine spoons and cocaine vials;
    - g. Chamber pipes;
    - h. Carburetor pipes;
    - i. Electric pipes;
    - j. Air-driven pipes;
    - k. Chillums;
    - l. Bongs; and
    - m. Ice pipes or chillers.

**Sec. 50-187. - Possession.**

It shall be unlawful for any person to use, or to possess with intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of this article.

**Sec. 50-188. - Manufacture or delivery.**

It shall be unlawful for any person to deliver, or possess with an intent to deliver, drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of this article.

**Sec. 50-189. - Exclusions.**

This division shall not include a police officer who, in the course of his duties, is required to perform certain acts in investigating illegal drug traffic, nor shall it include a person for whom marihuana has been prescribed by a physician, duly licensed by the state, nor a person who, in the course of his business, is required to handle such items.

<sup>2</sup> This amendment is in addition to the ordinance the City Council is currently considering (Ordinance No. 19-18) to prohibit marihuana businesses from operating within the City. A companion zoning ordinance amendment is also being presented for Planning Commission review and recommendation.

ORDINANCE NO. 21-18

ORDINANCE TO AMEND CHAPTER 86, ARTICLE III OF THE CITY CODE TO UPDATE  
THE CITY'S SANITARY SEWER USE REQUIREMENTS

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 86, Article III of the Code of the City of Wyoming is amended by to read as follows:

ARTICLE III. - SANITARY SEWER SYSTEM  
DIVISION 1. – GENERALLY

Sec. 86-130. - Definitions.

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

(a) *25 percent rule* means that the combined depth of oil and grease and other solids (floating and settled) in any chamber of a trap shall not be equal to or greater than 25 percent of the total operating depth of the trap. The operating depth of a trap is determined by measuring the internal depth from the water outlet invert elevation to the inside bottom of the trap.

(b) *Act* means the Federal Water Pollution Control Act and the Clean Water Act, Public Law 92-500, as adopted in 1972 and amended on February 4, 1987, as amended.

(c) *Alternative discharge limit* means limits set by the city in lieu of the promulgated National Categorical Pretreatment Standards for integrated facilities in accordance with the combined wastestream formula, as established by the EPA.

(d) *Authorized representative when used in relationship to an industrial user* means an individual meeting the requirements in 40 CFR §403.12(l).

(e) *Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures (without the addition of nitrification inhibitors, and expressed in terms of milligrams per liter).

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

(g) *Building official* means the director of utilities, building inspector, the city engineer or another designated agent of the city or that individual's designee.

(h) *Building sewers* means the extension from the building drain to a public sewer or other places of disposal.

(i) *Cesspool* means an underground pit into which raw sewage or other untreated liquid waste is discharged and from which the liquid seeps into surrounding soil or is otherwise removed.

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

(k) *Chlorine demand* means the difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period. The demand for any given water varies with the amount of chlorine applied, time of contact and temperature.

(l) *City* means the City of Wyoming, Kent County, Michigan.

(m) *Combined wastestream* means the wastestream at industrial facilities where regulated process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process. Where required by federal or state law, and only to the extent required by federal or state law, the combined wastestream formula provided in 40 CFR 403 will apply to the limits applicable to a combined wastestream.

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

(o) *Composite sample* means a series of representative samples taken over a specific time period and combined into one sample.

(p) *Debt service charges* means the charges levied to users of the system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the sewage works.

(q) *Director* means the city's director of utilities or that person's designee.

(r) *Domestic users* means all users of the sewage works whose discharge into the system is domestic wastewater.

(s) *Domestic wastewater* means wastewater consisting primarily of household and human waste.

(t) *Dwelling unit* means the same as found in chapter 90 of this Code (*i.e.*, the city's zoning ordinance).

(u) *Environmental Protection Agency (EPA)* means the U.S. Environmental Protection Agency, including its administrator or other duly authorized official.

(v) *Garbage* means liquid and solid wastes from the storage, preparation, cooking and dispensing of food and from the growing, handling, storage or sale of produce or other edible products.

(w) *Grab sample* means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.

(x) *Grease trap* means a device designed to separate and retain fats, oils, and grease from liquid waste and permit the liquid waste to discharge into the sewer system.

(y) *Holding tank waste* means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks or vacuum-pump tank trucks.

(z) *Incompatible pollutant* means any pollutant which is not compatible with biological treatment or removal of which is not designed into the treatment process.

(aa) *Industrial wastes* means the wastewater discharges that are not domestic wastewater, wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structures with these characteristics.

(bb) *Integrated facilities* means industrial facilities where wastestreams are combined prior to treatment.

(cc) *Interference* means any discharge which alone or in conjunction with discharges from other sources, both:

- (1) Inhibits or disrupts the POTW and any of its process or operations, or its sludge use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal.

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

(ee) *National Pollution Discharge Elimination System permit (NPDES permit)* means a permit issued pursuant to section 402 of the Act (33 USC 1342), as amended.

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

(gg) *Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

(hh) *New source* means:

(1) Any building, structure, facility or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
- b. The building, structure, facility or installation totally replaces the process or production equipment that causes discharge of pollutants at an existing source; or
- c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source will be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this definition has commenced if the owner or operator has:

- a. Begun, or caused to begin as part of a continuous on-site construction program:
  1. Any placement, assembly, or installation of facilities or equipment; or
  2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment;
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

(ii) *Operation and maintenance* means all work, materials, equipment, utilities, administration and other efforts required to operate and maintain the sewage works including the cost of replacement.

(jj) *Pass through* means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

(kk) *Penalty* means a charge for discharge of noncompatible substances including pH in violation of the wastewater discharge permit.

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

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

(nn) *Pollution* means the manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(oo) *Premises* means a lot, parcel or plot of land including the buildings or structures thereon or any part thereof.

(pp) *Pretreatment or treatment* means the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sewage works. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 40 CFR 403.6(d), as amended.

(qq) *Pretreatment facilities* means devices or structures for use in treating industrial waste prior to discharge into public sewers.

(rr) *Pretreatment requirements* means any substantive or procedural requirement for treating of a waste prior to discharge to the sewers.

(ss) *Pretreatment standards* means National Categorical Pretreatment Standards, alternative discharge limits or other federal, state or local standards, whichever are applicable.

(tt) *Private sewage works* means any sewage works or part thereof not connected to a public sewer and shall include, but not be limited to, septic tanks, cesspools and seepage pits.

(uu) *Public nuisance* means anything which is injurious to health, is indecent or offensive to the senses, or is an obstruction to the free use of property so as to interfere with human comfort or enjoyment of life or property, whether affecting individual interests per se or affecting at the same time an entire community or neighborhood of any considerable number of persons, although the extent of the annoyance, interference or damage may not be inflicted equally upon the persons therein.

(vv) *Public sewer* means a city sewer or any part thereof.

(ww) *Publicly owned treatment works (POTW)* means a treatment works as defined by section 212 of the Clean Water Act, which is owned in this case by the city. This definition includes any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances if they convey wastewater to a POTW treatment plant.

(xx) *POTW treatment plant* means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(yy) *Quality control* means a formal program designed to monitor the reliability (accuracy and precision) of reported analytical results.

(zz) *Replacement* means the replacement, in whole or in part, of any system equipment to ensure continuous treatment of wastewater in accordance with the NPDES permit and other state and federal regulations.

(aaa) *Sanitary sewer* means a sewer designed to carry sewage only.

(bbb) *Seepage pit* means an underground enclosure constructed of concrete blocks, bricks or similar material loosely laid with open joints so as to allow the septic tank overflow or effluent to be absorbed directly into the surrounding soil.

(ccc) *Septic tank* means a receptacle receiving sewage and having an inlet and outlet designed to permit the separation of solids in suspension from such wastes and to permit such retained solids to undergo decomposition therein.

(ddd) *Sewage or wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater,

surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the sewage works.

(eee) *Sewage works* means the sanitary sewage collection system any part thereof and the wastewater treatment facility.

(fff) *Sewer* means a pipe or conduit for carrying sewage.

(ggg) *Sewer connection permit* means, as set forth in section 86-137, a written permit issued by the city prior to using, connecting, altering or opening any public sewer or appurtenance thereof.

(hhh) *Sewer service charge* means any applicable user charges, surcharges and debt service charges.

(iii) *Significant industrial user* means, except as provided in subsection (3) of this definition:

(1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon finding that an industrial user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, determine that such industrial user is not a significant industrial user.

(jjj) *Significant noncompliance* means one or more of the following:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit (or grab sample limit) or average limit (or composite limit) for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit (or grab sample limit) or the average limit (or composite limit) multiplied by the applicable TRC value (TRC=1.4 for BOD, TSS, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in the wastewater discharge permit or other enforcement orders for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the city determines will adversely affect the operation or implementation of the local pretreatment program.

(kkk) *Slugload* means any pollutant, including compatible pollutants, released in a single extraordinary discharge episode of such volume or strength as to cause interference to the sewage works.

(lll) *Standard industrial classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

(mmm) *Storm sewer or storm drain* means a sewer designed to carry stormwater and surface water and drainage only.

(nnn) *Subsurface disposal field* means a system for the distribution of septic tank overflow or effluent below the ground surface through a line or a series of branch lines, of drain tile laid with open joint to allow the overflow or effluent to be absorbed by the surrounding soil throughout the entire field.

(ooo) *Surcharge* means a charge to cover the cost of treating sewage which exceeds limits as established in this article. A surcharge is appropriate to cover costs of treating extra strength compatible waste which are authorized by order of determination. A surcharge is not acceptable as a sole remedy for violations of limits.

(ppp) *Suspended solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(qqq) *System* means the City's sanitary sewer system including all collection lines, mains, pumps, chambers, the POTW and all components and facilities.

(rrr) *Toilet* means a privy, outhouse, septic tank, septic toilet, chemical closet or other device designed for the disposal of human excreta.

(sss) *Total toxic organics (TTO)* means total toxic organics, which is the summation of all quantifiable values greater than 0.01 milligrams per liter for toxic organics listed in the federal categorical pretreatment standards or as defined by the director.

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

(uuu) *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(vvv) *User* means any person who contributes, causes or permits the contribution of wastewater into the sewage works.

(www) *User charge* means a charge levied to users of a treatment works for the cost of sewage works including operation, maintenance and capital charges.

(xxx) *User class* means the kind of user connected to sanitary sewers including, but not limited to, the following:

(1) *Domestic user.* A user of a dwelling unit discharging domestic wastewater.

(2) *Industrial user.* Any user that discharges any industrial wastewater or that contributes, causes or permits the contribution or introduction of wastewater or pollutants into the POTW, whether intentionally or unintentionally, and whether directly or indirectly. *Wastewater* means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions including, without limitation, contaminated groundwater and landfill leachate, whether treated or untreated, that is contributed, introduced or discharged into the POTW.

(yyy) *Wastewater discharge permit* means as set forth in section 86-251, a written permit issued by the director to nondomestic users of the POTW.

(zzz) *Watercourse* means a channel, natural or artificial, in which a flow of water occurs, either continuously or intermittently.

(aaaa) *Waters of the state* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Sec. 86-131. - Abbreviations.

The following abbreviations shall have the designated meanings:

- (1) *BOD* means biochemical oxygen demand;
- (2) *CFR* means Code of Federal Regulations;
- (3) *COD* means chemical oxygen demand;
- (4) *EPA* means United States Environmental Protection Agency;
- (5) *L* means liter;
- (6) *MDEQ* means Michigan Department of Environmental Quality;
- (7) *mg* means milligrams;
- (8) *mg/l* means milligrams per liter;
- (9) *NPDES* means National Pollutant Discharge Elimination System;
- (10) *SIC* means standard industrial classification;
- (11) *SS* means suspended solids;
- (12) *TTO* means total toxic organics;
- (13) *USC* means United States Code;
- (14) *O&M* means operation and maintenance;
- (15) *CWA* means Clean Water Act;
- (16)  $\mu\text{g}$  means micrograms;
- (17) *POTW* means publicly owned treatment works;
- (18) *ppm* means parts per million;
- (19) *ppb* means parts per billion;
- (20) *ppt* means part per trillion.
- (21) *MG* means million gallons;
- (22) *gpd* means gallons per day;
- (23) *Cd* means cadmium;
- (24) *Cr* means chromium;
- (25) *Cu* means copper;
- (26) *Pb* means lead;
- (27) *Ni* means nickel;
- (28) *Zn* means zinc;
- (29) *CN* means cyanide;
- (30) *Ag* means silver;

- (31) *Hg* means mercury;
- (32) *As* means arsenic; and
- (33) *Be* means beryllium.

Sec. 86-132. - Designation of officials and agencies.

Whenever this article refers to any governmental agency it shall include any successor or replacement agency. Whenever this article refers to any governmental officer or official, it shall include that officer or official's successor and designee(s).

Sec. 86-133. - Water pollution; abatement of water pollution.

(a) No person shall discharge or allow to be discharged into any natural outlet or watercourse within the city or in any area under the jurisdiction of the city, any sewage, industrial waste or other pollution.

(b) If the building official determines from any investigation that there is a health or environmental hazard caused by sewage from any property being exposed to the surface of the ground or being permitted to drain under the surface of the ground or into any ditch, storm sewer, lake or stream, or that the presence of any sewage on the property has an obnoxious or detrimental odor or creates a public nuisance, the owner of such property must connect to the public sewer forthwith, whenever such property abuts any public right-of-way in which a public sanitary sewer is located, and the structure is within 200 feet of said sanitary sewer. If such property does not abut a public right-of-way in which a public sanitary sewer is located within 100 feet from an intersection of any line of the property with such right-of-way, the owner of such property shall forthwith construct, repair or replace the private sewage works so that the conditions which led to the determination by the building official are abated.

Sec. 86-134. - Private sewer system.

If property does not meet the 100-foot requirement of section 86-133, the building sewer of the property shall be connected to a private sewage works which shall be operated in a sanitary manner at all times. At such time as the property is connected to the public sewer, the property owner is responsible for all maintenance that is required for that portion of the connection located outside the city right-of-way or easement.

Sec. 86-135. - Disposition of private system upon connection to public sanitary sewer.

If any property is connected to a public sanitary sewer and there exists on the property a septic tank, cesspool, seepage pit or other similar private sewage facility, any sewage in the septic tank, cesspool, seepage pit or other similar private sewage facility shall be removed and disposed of in a sanitary manner, and the septic tank, cesspool, seepage pit or other private sewage facility shall be filled with sand or gravel.

Sec. 86-136. - Construction, repair or enlargement of private sewage works.

No private sewage works may be constructed, repaired or enlarged if any part of a residential structure, excluding any attached garage, on said property is within 200 feet of a public sanitary sewer, except as provided for in section 86-133.

Sec. 86-137. - Sewer connection permit—Generally.

No person shall uncover nor make any connections with, or openings into, use, alter or disturb any public sewer or appurtenance thereof, without obtaining a written permit from the city. All permit applications for industrial connections shall contain information outlined in section 86-253. Information submitted shall be approved by the director prior to issuance of a permit. Any sewer connections or work done within the city's right-of-way shall require a street opening permit from the city engineer.

Sec. 86-138. - Same—Classification.

There shall be two classes of building sewer permits:

- (1) Residential and commercial domestic; and
- (2) Commercial industrial and industrial.

In either case, the owner or the owner's agent shall make application on the form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered

pertinent by the city. Applications for an industrial or commercial industrial permit shall be submitted with a copy to the wastewater department. Permit and inspection fees shall be paid in the amounts specified from time to time by resolution of the city council.

Sec. 86-139. - Multiple sewer connection system.

A separate and independent building sewer shall be provided for each building. However, where any existing building is so located on an interior lot so that no private sewer is available nor can one be constructed to the building through an adjoining alley, courtyard or driveway, more than one building may be served with the same building sewer subject to approval by the city. In areas where laterals have not been constructed to the property and complete street improvements have been made or where unusual lot splits have occurred leaving only one lateral for two properties, if there is no health or other danger, the director may approve joint use of that lateral with the connection being made to the city sewer. All discharge limits in this article apply to that portion as the lateral emanating from a single building. Compliance with pretreatment standards or local discharge limits prescribed by this article shall be determined within each tributary to the common lateral prior to commingling with other wastewater.

Sec. 86-140. - Existing building sewer examination.

Existing sewers shall meet all requirements of this article. Whenever an examination determines that an existing building sewer does not meet the requirements of this article and the building official determines that the connection is creating a health hazard, odor or public nuisance, or environmental hazard the sewer shall be reconstructed at the owner's expense.

Sec. 86-141. - City of Grand Rapids sanitary sewer system.

If a significant industrial user located in the city is connected to the sanitary sewer system of the City of Grand Rapids, the terms of the City of Grand Rapids Sewer Use Ordinance (and the Interjurisdictional Agreement (IJA) executed by both the City of Grand Rapids and City of Wyoming pursuant to MCL 124.1 *et seq.* shall apply and are hereby incorporated by reference. Copies of the relevant portion of the Grand Rapids City Code and the IJA are on file with the city clerk and available to the public.

Secs. 86-142—86-160. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 86-161. - Rates, surcharges and penalties to be set by city council.

Rates, surcharges and penalties shall be paid by the user as set by resolution of the city council from time to time and on file in the city hall. Sec. 86-162. - Surcharge calculation and billing; penalty for violation of wastewater discharge permit.

(a) All nondomestic users of the city sewage works shall pay a surcharge for effluent containing the compatible pollutants in excess of baseline concentrations specified in section 86-292. For suspended solids, BOD, COD, phosphorus, grease and oil, or other specific compatible pollutants, the city may accept payment in lieu of the user meeting baseline concentration limits, subject to section 86-292. The city may use the test results from a COD analysis as an alternative means of surcharging for BOD. Surcharges for compatible pollutants shall be calculated as follows:

$$\text{(Average - Baseline)} \left( \frac{\text{mg}}{\text{L}} \right) \times \text{Flow (Mgal)} \times \text{Rate} \left( \frac{\$}{\text{lb}} \right) \times 8.34$$

(b) The city shall collect at least three composite or grab samples quarterly and base the surcharge cost upon such samples. If the director determines based on information made available to the director that more frequent sampling may more accurately provides a basis for the amount of surcharges, the city, may collect more frequent sample and base the surcharge on the more frequent sampling. If the user does not agree with the sampling or testing method of the city, the city may agree to an independent company, approved by the city, taking such samples, at the user's expense, under conditions and standards as determined by the city. The surcharge shall be calculated and billed quarterly by the city unless another time period is designated by the director (*e.g.*, monthly). City employees and officials shall not be involved directly or indirectly with any company performing tests on any samples where such tests are to be used by the city.

(c) A violation of a wastewater discharge permit is a municipal civil infraction. The city council may from time to time by resolution establish penalties for violation of a user's wastewater discharge permit. Penalties may be based on either a grab, composite or in the case of pH, on the basis of results from a pH recorder. Penalties will be assessed for any sample exceeding limits established from time to time by a resolution of the city council. Unless otherwise specified in such a resolution, any user who violates any provision of this article, or permits issued under this article, shall be penalized in an amount not to exceed \$10,000.00 (or the maximum penalty allowed under state law). Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Payment of penalties does not constitute compliance with the permit. In addition to these penalties, (i) those violating this article shall be subject to all other consequences of such violations as provided in this article and, (ii) continued, habitual or gross violations or those caused by negligence or failure to install and operate property pretreatment units will be enforced under sections 86-165, 86-167 and 86-297.

Sec. 86-163. - Delinquent accounts.

If any amounts owed to the city for the use of the public sewer system are not timely paid as required by this article, other parts of this code of ordinances, the terms of any contract, or the terms of any arrangement made with the city to pay such amounts, the city may pursue all remedies available at law or in equity including, to the extent not otherwise precluded or limited by law, one or more of the following:

- (1) A lawsuit against the property owner or any other person responsible for payment;
- (2) Suspending, terminating or otherwise discontinuing city sanitary sewer service, water service or both services to the premises;
- (3) Setting off the unpaid amounts against any amounts owed by the city to the owner of the premises or other responsible party; or
- (4) Certifying such charge to the city assessor who shall assess the charge against the lot or parcel of land upon which is situated the premises served. The assessment shall then be collected or returned in the same manner as real property taxes.
- (5) The city may also require an escrow deposit against future delinquent payments of such amounts. The deposit may be up to an estimated one-quarter's billing for sanitary sewer service, including any estimated surcharges, late payment fees, and interest. The deposit shall be held in a non-interest bearing escrow account to be used an applied against any amounts due for sanitary sewer service that are not paid when due. The amount used from the escrowed funds will be added to the amounts owed such that the user shall be obligated to maintain that escrow and timely pay all charges for sanitary sewer service in order to preclude use of the remedies provided in this section.

Sec. 86-164. - Public nuisance abatement.

A violation of this article is a public nuisance per se. The director or the building official may require the abatement of any public nuisance under this article by giving the owner of such property notice to eliminate such conditions. The time limit shall be stated in the notice commensurate with the type of nuisance. The director or building official may discontinue water and sewage service to the property if the owner or other responsible party fails to abate such nuisance. All work required to abate such nuisance shall be performed in compliance with this article at the owner's expense. Alternatively, or in addition, the city attorney may bring a lawsuit to abate the nuisance

Sec. 86-165. - Harmful contributions.

The director may suspend sewer and water service when such suspension is necessary to stop an actual or threatened discharge which may present an imminent or substantial endangerment to the health or welfare of persons or the environment, cause interference to the sewage works or cause the city to violate any condition of its NPDES permit. Any person notified of a possible suspension of water or wastewater treatment service shall immediately stop or eliminate the contribution. If that person fails to voluntarily comply with any discharge permit, the city may take such steps as deemed necessary including immediate suspension of sewer and water service, to prevent or minimize damage to the sewage works or endangerment of any individuals. The director shall reinstate the sewer and water and service upon proof of the elimination of the noncomplying discharge provided the city manager determines necessary steps have

also be taken to prevent recurrence of such noncompliance. The noncomplying user shall submit to the director a detailed written statement describing the cause(s) of the noncompliance and the measures taken to prevent any recurrence within 15 days of the date of occurrence.

Sec. 86-166. - Official determination of hazard.

If the building official determines that there is a health or welfare hazard created by the emanation of sewage by being exposed to the surface of the ground or draining of sewage from the property under the surface of the ground or into any ditch, storm sewer, lake or stream and that the continuance of the use of the private sewage works for the property poses an immediate threat to humans or natural resources, the building official may order and require the occupants to vacate any structure on the property forthwith.

Sec. 86-167. - Notification of violation of article.

If the city finds that any user has failed to comply with or is failing to comply with any provision of this article, the city may serve upon such person a written notice stating the nature of the noncompliance and require a plan to correct it and prevent recurrence. Within 30 days of the date of the notice or such shorter time as the city may require in the notice in order to protect the environment or the public health, safety or welfare, a plan for the satisfactory correction of all violations shall be submitted by the user to the city for approval. Failure to respond in 30 days or shorter time as provided in the notice, or to develop a satisfactory plan shall constitute an additional violation of this article, and the city shall take such action as deemed necessary, including suspension of water or sewer service, or both.

Sec. 86-168. - Show cause hearing.

(a) Any user subject to enforcement action under the provisions of this article may, within 10 days, make a written request for a hearing before the city manager which request shall be filed with the director or the city clerk. If any user so requests a hearing, the city manager shall hold a hearing concerning the violation, any reasons for the action, remedial actions taken following the violation, steps and plans to prevent further noncompliance with this article, and any proposed enforcement actions. The city manager shall allow the user to show cause why the proposed enforcement action should not be implemented.

(b) The city manager may conduct the hearing and take the evidence or may designate any officer or employee to:

- (1) Issue in the name of the city manager notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (2) Take the evidence, inquire of witnesses or other persons presenting information or arguments, review any exhibits or records, allow for any pre-hearing or post-hearing written submissions; and
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city manager for action thereon.

(c) At any hearing held pursuant to this article, testimony taken may, but doesn't need to be, under oath and recorded. The transcript will be made available to any member of the public or any part to the hearing upon payment of charges for copying. Rules of civil procedure and rules of evidence do not apply. Information normally relied upon in the conduct of serious business may be presented and considered. While either the city or the user may be represented by legal counsel, legal counsel is not required. The city manager or the person designated by the city manager to conduct the hearing may consult with the city's legal counsel as either deems needed or helpful.

(d) After the city manager has reviewed the available information, an order may be issued to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless acceptable treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities and that such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(e) The city manager may also establish appropriate surcharges or fees to reimburse the city for the additional cost of operation and maintenance of the wastewater treatment works due to any violations of this article.

(f) Any order or directive by the city manager may be appealed to a board of referees consisting of two registered professional engineers authorized to practice in Michigan who experience in wastewater issues, one of who shall be selected by the city and one by the user, and a third engineer selected by the first two engineers. None of three engineers shall be in the employ of, a party to any contract with, or an officer or employee of a party to a contract with either the city or the user. The appeal shall be made in writing to the director within 10 days of any order or directive resulting from the hearing before the city manager. Selection of referees shall be made within 10 days of the filing of the appeal.

(g) Within 10 days after receiving notice of the selection of the referees, the city manager shall file with the referees a copy of his determination and the results of his investigation supporting such determination. Within 10 days thereafter the appellant shall file its reply together with supporting documentation. The referees may thereafter require additional information and may, if they choose, hold a hearing at which both sides may present evidence and arguments. The referees shall, by a majority vote, render a written opinion within ten days after the last documents are filed, and such opinion shall be binding upon all parties. The review by the referees shall be *de novo* but based on the information that was in the record at the completion of the city manager's hearing.

(h) The referees shall be entitled to reasonable compensation and expenses with the costs to be borne equally by the city and the user.

(i) Any party may seek judicial review of a referee decision in circuit court. The circuit court shall uphold the city manager's decision if it is based on competent, material and substantial evidence.

Sec. 86-169. - Legal action.

If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate relief.

Sec. 86-170. - False information.

No person shall knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article nor shall falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this article.

Sec. 86-171. - Affirmative defense.

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions of this article and the specific prohibitions in subsections (2), (4), (8), (10) and (12) of section 86-291 where the user can demonstrate that:

(1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(2) Either:

a. A local limit designed to prevent pass through or interference was developed for each pollutant in the user's discharge that caused pass through or interference and the user was in compliance with each such local limit immediately before and during the pass through or interference; or

b. A local limit was not applicable and immediately before and during the pass through or interference the user's discharge did not substantially change in volume or constituents from the user's previous discharges when the POTW was regularly in compliance with its NPDES permit and, in the case of interference, all applicable requirements for sludge use or disposal.

Sec. 86-172. - Publication of list of industrial users in significant noncompliance.

As required by federal regulations, the city shall at least annually, before April 1, publish in a newspaper of record a list of industrial users which during the previous calendar year were in significant noncompliance of applicable pretreatment standards or other pretreatment requirements. For the purposes of this section significant noncompliance is defined in section 86-130.

Sec. 86-173. - Conflicts.

Should any existing agreements, orders or permits be in conflict with this article, then they shall be revised so as to comply with this article.

Sec. 86-174. - Municipal civil infraction—Penalty.

Any violations of the provisions of article not specifically designated a misdemeanor shall be a civil infraction for which the user shall be responsible for a civil fine in the amount not to exceed \$10,000.00 for each violation.

Sec. 86-175. – Other amounts owed for violations.

In addition any other amounts or remedies under this article, anyone violating or responsible for a violation of any provision of this article shall be responsible for paying all costs incurred by the city as a result of such violation, including for example and not for limitation, (i) any fines or penalties the city may be obligated to pay as a result of such violation or any violation of any permit issued to the city that results from the person's violation of this article, (ii) any costs incurred to reactivate, repair, improve, or replace any part of the system or any processes within the system, (iii) any costs for engineering, legal, environmental consultant or other professional services, (iv) any overtime or other personnel costs, (v) the cost of any contract services such as hazardous waste disposal costs, added sludge handling or disposal costs, pumping costs, laboratory fees, or other expenses, (vi) added materials costs such as in the city's laboratory; (vii) added special equipment costs such as pumps or payments for use of equipment in the city's motor pool, (viii) any publication or public information expenses, (ix) costs of any special clothing for or to replace any clothing or personal articles of city personnel, (x) any filing fees, appeals costs, collection expenses, discovery costs, cost of exhibits, or other expenses related to any legal or administrative proceeding, (xi) any first aid or medical expenses for due to any illness, injury or reasonable diagnostic test needed to rule out any illness or injury to any city employee or agent, and (xii) any costs the city is obligated to pay any third party such as another user of the system, including any incidental or consequential damages paid to any such third party.

Secs. 86-176—86-200. - Reserved.

### DIVISION 3. - BUILDING SEWERS

Sec. 86-201. - Material specifications.

All materials used on construction of laterals and building sewers shall be of the type approved by the applicable construction code and as required by the city.

Sec. 86-202. - Pipe size.

The size of a residential building sewer shall not be less than 4 inches in diameter. All other sewer sizes shall be determined by the city based upon the type of facility and the applicable construction code.

Sec. 86-203. - Sewer slope.

Building sewers shall be constructed to slopes consistent with the provisions of the applicable plumbing code, but not less than 1/8-inch per linear foot.

Sec. 86-204. - Location and elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. Building sewers shall not be laid parallel to nor within 3 feet of any bearing wall. The depth shall be sufficient to be protected against frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in alignment shall be made only with properly curved pipe or long radius fittings. Changes in direction having bends of 45 degrees or more shall have a cleanout.

Sec. 86-205. - Floor drains.

Floor drains which are connected to the building sewer shall be required for all basements or cellars if the elevation of the public sanitary sewer will service the building.

Sec. 86-206. - Lift pump.

In all buildings in which any building drain is too low to permit gravity flow to the building sewer, sanitary sewage carried by such drain shall be lifted by means of a pump or other approved means and discharged into the building sewer.

Sec. 86-207. - Construction procedures to be in accordance with city's standard construction specifications; exception.

All construction procedures shall be in accordance with the city's standard construction specifications, with the exception that tunneling of laterals will be allowed if it is determined that the proper alignment and slope can be maintained on the lateral.

Sec. 86-208. - Grease, oil and sand interceptors.

(a) All establishments where food is manufactured, sold or prepared, except for small areas designated as employee break areas or the equivalent, discharging wastewater containing fats, oils, and grease (FOG) to the system shall install, operate, and maintain a sufficiently-sized oil and grease, water and solids separator (hereinafter called grease trap) necessary to achieve and maintain compliance with the limits indicated in section 86-292.

(b) Unless otherwise authorized by the director, all grease traps shall be of the outdoor, inline variety. With special authorization by the director, grease traps of the indoor, under-counter, stand-alone variety may be allowed. In this case, maintenance of indoor grease traps shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25% rule" as defined herein. Under no condition shall an indoor grease trap be cleaned at intervals less frequent than once every 14 days.

(c) Grease, oil and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. Such interceptors shall not be required for dwelling units. All interceptors shall be of a type and capacity approved by the director and shall be located so as to be readily accessible for cleaning and inspection.

(d) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(e) Where installed, all grease, oil and sand interceptors shall be cleaned and maintained by the owner and shall be operated continuously in an efficient manner whenever the facility is in operation. The city shall have the right to inspect maintenance and disposal records related to the operation of grease, oil and sand interceptors.

(f) The user shall be responsible for the proper removal and legal disposal of the grease trap waste. All waste removed from each grease trap must be disposed of at a facility permitted to receive such waste. No grease trap pumpage may be discharged to the city sewer system. Maintenance shall include the complete removal of all contents, including floatable materials, wastewater, sludges and solids and jet flushing to remove measurable build-up on tank walls. Top skimming of outdoor grease traps, decanting or back flushing of the grease trap or its wastes for the purpose of reducing the volume to be hauled is prohibited.

(g) There shall be ample room and reasonable access to interceptors to allow accurate sampling and preparation of samples for transport and analysis.

(h) Grease traps and other interceptors shall be installed in compliance with the current plumbing codes adopted by the city. The director shall make final determination and approval of a grease trap's size. If additional pretreatment and/or maintenance is required to meet the provisions in this section, the director, may require that the establishment in existence prior to the effective date of this section upgrade to the requirements provided.

(i) Maintenance of an outdoor grease trap shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25 percent rule" and at intervals no less than once every 90 days.

(j) Use of any bacteriological, chemical or enzymatic addition for the purpose of maintaining a grease trap is prohibited unless written approval is obtained from the director.

(k) The user shall be responsible for maintaining records and/or manifests as to the dates of service, quantity and waste hauler name at the user's location for a period of three years, which records shall be subject to review by the city without prior notification.

(l) Should any user fail to properly clean and maintain a grease trap as required herein, the city, at its option may contract for appropriate cleaning and maintenance by a licensed contractor, the cost of which shall be collectable by the city from the user at a charge of actual cost plus 100%.

Sec. 86-209. - Tests.

All tests of building sewers shall be made in conformance with the applicable plumbing code.

Sec. 86-210. - Completion notification.

The applicant for the building sewer permit shall notify the plumbing inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city's plumbing inspector.

Secs. 86-211—86-250. - Reserved.

#### DIVISION 4. - PUBLIC SEWER USE Subdivision I. - In General

Sec. 86-251. - Wastewater discharge permits—Generally.

The director shall by written permit establish the maximum relative strength of sewage and industrial waste to be discharged into the public sewer by nondomestic users. Prior to the initial issuance of a permit or 90 days prior to the expiration of an existing permit, nondomestic users shall submit the information outlined in section 86-253. Wastewater discharge permit fees shall be paid in the amount as set from time to time by resolution of the city council. Permits shall contain, at a minimum, the following conditions:

- (1) A statement of duration (in no case more than five years);
- (2) A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (3) Effluent limits based upon applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based upon general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; and
- (6) A statement to enable authorized representatives of the POTW, state, and EPA to enter and inspect the premises of nondomestic users.

Sec. 86-252. - Same—Review and adjustment.

Any permit issued by the director shall be periodically, not less frequently than once every 5 years, reviewed and adjusted.

Sec. 86-253. - Wastewater contribution information.

(a) All nondomestic users proposing to connect to or to contribute to the sewage works shall submit information on their processes and wastewater to the city before connecting to or contributing to the sewage works. All existing industrial users connected to or contributing to the sewage works shall submit this information upon request of the director. At least 90 days prior to the commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable

categorical standard shall be required to submit to the city a report which contains the information in this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (a)(4) and (a)(7) of this section. The information submitted shall be sufficient for the city to determine the impact of the user's discharge on the sewage works and the need for pretreatment. Any statements or information submitted in connection with this section shall be signed by an authorized representative of the company. The user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name of the operator and owners, facility name, address and location.
- (2) A list of any environmental control permits held by or for the facility.
- (3) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (4) Measurement of pollutants. For industrial users subject to categorical pretreatment standards, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass where required) shall be reported. The sample shall be representative of daily operations.
  - a. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The city may waive flow proportional sampling for any industrial user that demonstrates that flow proportional sampling is infeasible. In such cases samples must be obtained through time proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
  - b. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this section.
  - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula.
  - d. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the director determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties approved by the director.
  - e. If this report is a baseline report, the city may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures. The baseline report shall indicate the time, date and place of sampling; the methods of analysis; and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (5) Average rate of production.
- (6) Time and duration of contribution.
- (7) Average daily and maximum wastewater flow rates from all regulated process streams and other waste streams as necessary to allow use of the combined wastestream formula, including daily, monthly and seasonal variations, if any. The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

(8) Industries identified as significant industries or subject to the national categorical pretreatment standards or alternative discharge limits or those required by the city must submit site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation. For industrial users subject to categorical pretreatment standards, a schematic process diagram identifying the location of points of discharge from all regulated processes as well as the pretreatment standards applicable to each regulated point of discharge shall also be submitted.

(9) Description of activities, facilities and plant processes on the premises including all materials or pollutants which are or could be discharged.

(10) The user shall submit a certification statement reviewed and signed by an authorized representative indicating whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required by the industrial user to meet applicable pretreatment standards.

(11) If additional pretreatment or O&M will be required to meet the pretreatment standards, the user will provide the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the user to meet the applicable pretreatment standards.

b. No such increment shall exceed nine months.

c. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay; and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such increments of progress.

(12) Type and amount of raw materials.

(13) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(14) Location of sampling manhole.

(15) Any other information as may be deemed by the city to be necessary to evaluate the impact of the discharge on the sewage works.

(b) Any industrial user must inform the appropriate authorities upon discharge of hazardous waste as follows:

(1) Any industrial user shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of the constituents in the wastestream expected to be discharged during the following 12 months. Industrial users shall provide this notification no later than 180 days after the discharge of the listed or characteristic hazardous waste commences. Any notification under this section need be submitted only once for each hazardous waste discharged. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements in this article.

(2) Dischargers are exempt from the requirements of subsection (b)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 40 CFR 261.33(e) requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous wastes or listing any additional substances as hazardous wastes, the industrial user must notify the POTW, the EPA regional waste management waste division director, and the state hazardous waste authorities of the discharge of such substances within 90 days of the effective date of such regulations.

(4) In the case of any notification made under subsection (b) of this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

(c) All users shall be required to maintain records of wastewater contribution information for a period of at least three years.

Sec. 86-254. - Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user and that such information need not be disclosed in accordance with any applicable Freedom of Information Act or any other applicable law. When requested by the person furnishing a report which might disclose trade secrets, such report shall be kept confidential to the extent permitted by law except that the report shall be made available upon written request to governmental agencies for uses related to this article, the NPDES permit or any pretreatment programs, and it 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.

(b) Except as otherwise required by applicable law, information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city unless and until a 10-day notice is given to the user. If an applicable state or federal law, rule, or regulation conflicts with a provision in this article by requiring greater disclosure, that state or federal law, rule, or regulation shall govern.

Sec. 86-255. - Wastewater discharges.

No person shall discharge into the waters of the state within the city or in any area under the jurisdiction of the city or to the system except as authorized by the director in accordance with the provisions of this article.

Sec. 86-256. - Liquid discharges.

No person shall discharge or cause to be discharged any type of liquid into any sewer except in accordance with this article.

Sec. 86-257. - Waste hauler discharges.

Waste haulers authorized to discharge into the POTW shall be required to pay fees established from time to time by resolution of the city council, in addition to any surcharges. Discharge shall be allowed only at such points as designated by the city. Waste haulers applying for discharge authorization shall submit the information requested in section 86-253 prior to receiving authorization.

Sec. 86-258. - Discharge regulations, charges and fees.

Wastewater discharges shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. In addition, the city may:

- (1) Establish unit charges, surcharges or a schedule of user charges and fees for the wastewater to be discharged into the sewage works;
- (2) Limit the average and maximum wastewater constituents and characteristics;
- (3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;
- (4) Require the installation and maintenance of inspection and sampling facilities;
- (5) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Establish compliance schedules;
- (7) Require submission of technical reports or discharge reports;
- (8) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the city, and affording city access thereto, and copying thereof;
- (9) Require notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Require notification of slug discharges;
- (11) Require other conditions as deemed appropriate by the city to ensure compliance with this article.

Sec. 86-259. - Monitoring facilities.

(a) The city may require a user to provide, maintain and operate monitoring facilities at the user's expense. Such facilities may include any or all of the following: a source of power, a sampling manhole meeting the specifications required by the city, an approved sampler, and flow monitoring devices as required by the director to allow for inspection, sampling and flow measurement of the building sewer and internal drainage systems. Such facilities shall be kept free of snow, parked vehicles or other obstructions. The monitoring facility shall be situated on the user's premises in an area accessible to a vehicle, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the city and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city of requiring such facilities unless the completion date is extended by the director at his discretion.

(b) Flow measurement devices on building sewers shall be checked and necessary repairs made on an annual basis. Such maintenance and checks shall be performed by the equipment manufacturer or an authorized designee who shall certify in writing to the director as to the accuracy of the equipment.

Sec. 86-260. - Meters required.

All users shall have meters on all water sources that ultimately discharge into the sewage works or shall meter the liquid wastes at the point of discharge into the sewage works. All meters and metering plans shall be approved by the city.

Sec. 86-261. - Inspection and sampling.

(a) The city may inspect the premises and facilities of any user to ascertain whether the requirements of this article are being met. Persons or occupants of premises where wastewater is created or discharged shall

allow the city's representatives access to all parts of the premises for the purposes of inspection, sampling, records examination, record copying or any other task necessary in the performance of their duties. Nondomestic users shall be subject to inspection fees as stipulated by resolution of the city council from time to time and on file in city hall.

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

(c) Refusal to allow duly authorized representatives entry shall be considered a violation of this article and may be considered grounds for discontinuing of sewer or water services, or both.

Sec. 86-262. - Refusing entry for inspection; issuance of search warrant.

Whenever the building official or director deems it necessary to enter upon any property at a reasonable hour for the purposes of inspection, observation, measurement, sampling and testing of enforcement in accordance with the provisions of this article and is refused such entry, the official who is refused such entry may make an affidavit in writing, under oath to the district court stating the facts of the case so far as it may be known to the complainant. The court may issue an administrative search warrant or inspection or other order allowing the director, building official or his representatives to enter upon such property to the extent and time necessary to enforce and carry out the provisions of this article.

Sec. 86-263. - Sampling and analytical fee.

Industrial users may be charged a sampling and analytical fee in cases where the city must utilize the analytical capabilities of a private laboratory in order to determine compliance with pretreatment standards. This fee shall be equal to the actual costs incurred by the city plus an additional administrative fee to compensate the city for the staffing time, billing and collection expenses.

Sec. 86-264. - Self-monitoring.

The city may require industrial users to conduct self-monitoring. The city shall determine the frequency of self-monitoring necessary to assess and assure compliance by the industrial user with applicable pretreatment standards and requirements. The city may require the industrial user to provide a split of self-monitoring samples. The city shall require appropriate reporting from industrial users required to conduct self-monitoring.

Sec. 86-265. - Sampling and analysis procedures and methods.

All sampling and analyses conducted shall be performed in accordance with the procedures and methods required by 40 CFR Part 136.

Sec. 86-266. - Laboratory utilized by industry conducting self-monitoring to be approved by city; quality control documentation required.

(a) Each laboratory utilized by industries conducting self-monitoring as required by the city shall be approved by the city and required to operate a formal quality control program as required by 40 CFR Part 13.

(b) Laboratories conducting analyses for industrial users must submit a copy of the formal quality control documentation prior to approval by the city. Approval of laboratories shall be subject to periodic review. The city shall have the right to issue blind standards to be analyzed by other laboratories being utilized for self-monitoring. In the case of resolving disputes between analytical data generated by the city and another laboratory, any data without documented supporting quality control data will be rejected.

Sec. 86-267. - User notification to POTW of spills, etc., or change in volume or character of discharge; requirements.

All industrial users shall notify the POTW immediately of any accidental spills, unusual discharges, or slugloads. All industrial users shall promptly notify the POTW in advance of any substantial change in the

volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p) or 40.24(2) or this article. If self-monitoring performed by an industrial user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results to the city within 30 days after becoming aware of the violation. The industrial user is not required to resample if:

- (1) The city performs sampling at the industrial user at a frequency of at least once per month.
- (2) The city performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

Sec. 86-268. - Pretreatment compliance reporting.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the sewage works, any user subject to pretreatment standards and requirements shall submit to the director information requested in section 86-253. For industrial users subject to equivalent mass or concentration limits established by the city in accordance with the procedures in 40 CFR 403.6, this report shall contain a reasonable measure of the user's longterm production rate. For all other industrial 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 user's actual production during the appropriate sampling period. This report shall include the certification statement as required in section 86-253. This statement shall be signed by an authorized representative as outlined in section 86-131.

(b) Periodic compliance reports shall be submitted by users as follows:

(1) Any user discharging into the sewage works shall submit to the director semiannually, unless required more frequently in the pretreatment standards or by the director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in section 86-253. The reports required in this section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The city shall require that frequency of monitoring necessary to assess and ensure compliance by the industrial user with applicable pretreatment standards and requirements. If an industrial user subject to the reporting requirements in this section monitors any pollutant more frequently than required by the city, the results of this monitoring shall be included in the report. At the discretion of the director, the director may alter the months during which the above reports are to be submitted. This report shall include the certification statement as required in section 86-253. This report shall be signed by an authorized representative as outlined in section 86-131. In the case of significant noncategorical industrial users, where the POTW itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.

(2) The director may also impose mass limitations on users using dilution to meet applicable pretreatment standards or requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by subsection (b)(1) of this section shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

Secs. 86-269—86-290. - Reserved.

#### Subdivision II. - Prohibited Discharges and Pretreatment Standards

Sec. 86-291. - General discharge prohibitions.

No person shall contribute nor cause to be contributed, directly or indirectly, any of the following substances into the sewage works:

- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion hazard in the POTW (including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees

Celsius using the test methods specified in 40 CFR 261.21) or be injurious in any other way to the sewage works or to the operation of the sewage works.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer to other interference with the operation of the wastewater treatment facilities.

(3) Any wastewater having a pH of less than 5.0, or greater than 10.5, or other than that range established by the wastewater discharge permit, or any wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works. In any event, a minimum pH of 5.0 is necessary in order to comply with 40 CFR 403.5.

(4) Any pollutant, including oxygen demanding pollutants released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

(5) Any wastewater containing toxic pollutants in sufficient quantity, either alone or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the sewage works or exceed any limitation set forth in the EPA categorical pretreatment standard, or any other applicable federal, state or county standards.

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

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(9) Any substance which may cause the sewage works' effluent, or any other product of the sewage works such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(10) Any substance which, alone or in conjunction with a discharge or other discharges, causes pass through as defined in section 86-131.

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

(12) Any wastewater having a temperature which will inhibit biological activity in the sewage works. Wastewater with a temperature at the introduction into the sewage works which exceeds 49 degrees Celsius (120 degrees Fahrenheit) or is lower than 0 degrees Celsius (32 degrees Fahrenheit) is prohibited.

(13) Any slugload.

(14) Any wastewater containing 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.

(15) Any wastewater which can cause any hazardous situation or creates a public nuisance.

(16) Any wastewater containing noncompatibles in excess of the limits contained in the wastewater discharge permit.

(17) Any trucked or hauled pollutants except, at discharge points designated by the POTW.

Sec. 86-292. - Discharge standards and limits.

(a) All nondomestic users who discharge compatible pollutants shall be subject to the requirements itemized below.

(1) Upon approval of the director and issuance of a wastewater discharge permit, and if the discharge complies with the requirements of subsection (3) herein, wastewater not in excess of user-specific maximum mass limits may be discharged. These limits will be established by the

director by an appropriate allocation of the wastewater treatment plant's approved maximum allowable headworks loadings for the following parameters:

Parameter	MAHL (lb/day)
5-day BOD	85,000
Suspended Solids	51,600
Total Phosphorus	1,800
Ammonia Nitrogen	4,800

(2) Upon approval of the director and issuance of a wastewater discharge permit, wastewater containing pollutants not in excess of the following maximum concentration limits may be discharged:

Parameter	Daily Average Concentration (mg/L)	Single Grab Concentration (mg/L)
Fats, Oils and Grease	470	830

(3) Discharges of compatible pollutants shall also be subject to a surcharge in accordance with section 86-162 when exceeding any of the following baseline levels:

Parameter	Daily Average Concentration (mg/L)
5-day BOD	460
Suspended Solids	260
Phosphorus	12
Fats, Oil and Grease	91
Ammonia Nitrogen	32

(b) All nondomestic users who discharge incompatible pollutants shall be subject to the requirements itemized below.

(1) Primary toxic pollutants.

a. Upon approval of the director and issuance of a wastewater discharge permit, wastewater not in excess of the following limits may be discharged:

Parameter	Daily Maximum Concentration (mg/L)
Arsenic, Total	0.061
Cadmium, Total	0.1
Chromium, Total	2.9
Copper, Total	2.1
Lead, Total	1.9
Mercury, Total	<0.0002
Molybdenum, Total	0.19
Nickel, Total	1.2
Selenium, Total	0.04
Silver, Total	0.15
Zinc, Total	4.0

Cyanides, Total	0.2
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(2) *Secondary toxic pollutants.*

a. Upon approval of the director and issuance of a wastewater discharge permit, wastewater containing pollutants not in excess of the following limits may be discharged:

Parameter	Daily Average Concentration (mg/L)
2-Butanone (Methyl Ethyl Ketone)	760
Butyl Benzyl Phthalate	6.4
4-Chloro-3-Methyl Phenol (p-Chloro-m-Cresol)	1.0
1,4-Dichlorobenzene	0.48
bis 2-Ethylhexyl Phthalate	0.19
4-Methylphenol (p-Cresol)	4.7
Naphthalene	1.9
Phenol *	42
Toluene	3.5

Notes:

\*Based on discharge of any or all of the following phenolic compounds: 2-Chlorophenol; 4-Chlorophenol; 2,4-Dichlorophenol; 2,4-Dimethylphenol; 2,4-Dinitrophenol; 2-Methylphenol; 4-Methylphenol; 2-Nitrophenol; 4-Nitrophenol; and Phenol. Discharge of other phenolic compounds is prohibited, except as specifically authorized by the director.

a. Should pollutants other than specified above be received or anticipated, corresponding discharge limits may be established by the City via an appropriate mass allocation of the wastewater treatment plant's approved maximum allowable headworks loadings. The City reserves the right to enter into local initiatives with industrial users setting out special terms under which they may discharge to the POTW. In no case will any special agreement waive compliance with a pretreatment standard or requirement.

Sec. 86-293. - National categorical pretreatment standards.

Upon the promulgation of any national categorical pretreatment standards, alternative discharge limits or other federal or state limitations, for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this article for uses in that subcategory, shall immediately supersede the limitations imposed under this article and shall be considered part of this article. Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical pretreatment standard. Existing sources which become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of new source as defined in section 86-131. New sources shall install and have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards. The director shall notify all affected users of the applicable reporting requirements.

Sec. 86-294. - Equivalent mass and concentration limits.

When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the city 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 industrial users. The city shall calculate equivalent mass-per-day limitations and equivalent concentration limitations in accordance with 40 CFR 403.6(c)(2)-(4) and 40 CFR 403.6(c)(6)-(7). Equivalent limitations calculated in accordance with these sections shall be deemed pretreatment standards for the purposes of section 307(d) of the Act and this article. Industrial users shall comply with the equivalent limitations in lieu of the promulgated categorical standards for which the equivalent limitations were derived. Any industrial user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the city within 2 business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the city of such anticipated change will be required to meet the mass or concentration limits in its wastewater discharge permit that were based on the original estimate of the long-term average production rate.

Sec. 86-295. - Net/gross calculation.

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with 40 CFR 403.15.

Sec. 86-296. - Discharge modifications.

Within 6 months of the promulgation or revision of any applicable pretreatment standard, all affected users must submit to the city the information required by section 86-253(a)(8) and (a)(9).

Sec. 86-297. - Application of state requirements or limitations.

State requirements or limitations on discharges shall apply whenever they are more stringent than national categorical pretreatment standards or limitations provided in this article. State and federal requirements may not be appealed.

Sec. 86-298. - Compliance with pretreatment standards.

Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all pretreatment standards within the time limitations specified by the federal pretreatment regulations, state regulations and as required by the city. Any facilities required to pretreat wastewater shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to and approved by the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable by the city prior to the user's initiation of the changes.

Sec. 86-299. - User to initiate construction of facilities necessary to comply with discharge limitations.

If pretreatment facilities are necessary to comply with wastewater discharge permit limitations, industrial users shall initiate construction of such facilities within 6 months and complete construction within 18 months from the date of notice of noncompliance by city.

Sec. 86-300. - Increase of process water to dilute excessive discharge.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, alternative discharge limits or in any other pollutant-specific limitation adopted by the city or state.

Sec. 86-301. - Procedures for prevention of accidental and slugload discharges; notification if discharge occurs.

Users shall provide protection from slugload discharges or accidental discharges of prohibited materials or other substances regulated by this article. If deemed reasonably necessary by the director or as otherwise required by state or federal laws or regulations, the city may require the user to implement procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants

(including solvents) and/or measures and equipment for emergency response. Facilities to prevent slugload discharges or accidental discharges of prohibited material shall be provided and maintained at the user's cost and expense. Detailed information and plans showing facilities and operating procedures to provide this protection including descriptions of discharge practices and stored chemicals shall be submitted to the city for review and approval by the city before construction. All users shall complete construction of required facilities within the time period specified by the director. New users shall not be permitted to introduce pollutants into the system until approved accidental discharge facilities have been constructed. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the facility as necessary to meet the requirements of this article or from otherwise meeting requirements of this article. In the case of a slugload discharge or an accidental discharge, the user shall immediately notify the director of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions. Accidental discharge shall also include any discharge where such discharge has the possibility of entering into any waters of the state.

(1) Within 5 working days following a slugload or accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to correct the situation and to prevent similar future occurrences. Such notification shall not relieve the user of any expense, penalty, loss, damage or other liability which may be incurred as a result of damage to the sewage works treatment process, nor any other damage to person or property, nor shall such notification relieve the user of any fines, civil or other liability which may be imposed by this article or other applicable law.

(2) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the persons to notify in the event of an accidental discharge. Employers shall advise all employees who may cause or suffer such a dangerous discharge to occur of the emergency notification procedure.

Sec. 86-302. - Upset to constitute affirmative defense.

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (b) of this section are met.

(b) An industrial user wishing to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the causes of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(3) The industrial user has submitted the following information to the POTW and control authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken or planned to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(c) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) In the usual exercise of prosecutorial discretion, the city's enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final city action subject to judicial review. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility

until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

Sec. 86-303. - Bypass.

For the purpose of this section, bypass shall mean the intentional diversion of wastestreams from any portion of the industrial user's treatment facility. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to subsections (1) and (2) of this section.

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the city, if possible, at least ten days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the city within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The city may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(2) Bypass is prohibited, and the city may take enforcement action against an industrial user for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. Severe property damage shall mean substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. 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 judgement to prevent a bypass which occurred during periods of equipment downtime or preventative maintenance;

c. The industrial user submitted notices as required under subsection (1) of this section.

(3) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subsection (2) of this section.

Secs. 86-304—86-320. - Reserved.

## DIVISION 5. - LIQUID WASTE

Sec. 86-321. - Definitions.

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

(a) *Liquid waste* means any liquid, gaseous or waterborne waste or sludge materials resulting from or incidental to any process of industry, manufacturing, mining or agricultural operations or any mixture of these waste materials with water or domestic sewage and domestic sewage.

(b) *Liquid waste disposal system* means any facility primarily designed or operated for the purpose of processing or storing liquid waste.

(c) *Structure* means the area in which the liquid industrial waste or liquid waste is stored on the premises for treatment or processing and shall include holding tanks.

Sec. 86-322. - Storage, removal, transfer, unloading, offering for sale, trade or exchange restricted to areas zoned for such dealings.

No person shall engage in the storage, removal, transfer, unloading, offering for sale, trade or exchange, or in any manner dealing in liquid wastes in the city except at such locations as are provided for in the zoning provisions of this Code.

Sec. 86-323. - Accumulations and deposit.

No person shall deposit, cause to be deposited or permit to accumulate any liquid waste or liquid industrial waste upon any public or private premises within the city in such a manner so as to emit noxious or offensive odors or dust or to become unsanitary or injurious to public health.

Sec. 86-324. - Storage and treatment.

The following provisions shall govern the operation for storage and treatment of all liquid waste on any property, excluding industries generating such liquid wastes which do not store or treat such liquid wastes:

- (1) Whenever liquid wastes are placed into any area for the purpose of removing liquids or portions of liquids from such waste, such liquid waste shall be placed in structures according to provisions as stated in this section.
- (2) None of the liquid waste shall be allowed to spill outside of the structures, and, if it is spilled outside, it shall be removed immediately.
- (3) No liquid waste shall be allowed to discharge on or into the groundwaters or surface waters.
- (4) Any liquid waste which has spilled onto the apron around the structure shall be washed into the structure or removed from the apron immediately after the spillage.
- (5) The entire area in which the structures are located shall be enclosed by a chain-link fence and a chain-link gate which shall be locked so as to prevent entrance by any unauthorized person when the area is unattended.
- (6) No liquid waste shall be allowed to dry to the extent that the waste would generate dust.
- (7) All liquid waste placed into any open structure shall be a minimum of six inches below the top of the structure at all times.
- (8) Reasonable means shall be used to prevent any spillage from any vehicles while they are carrying any liquid waste on any street to and from the location of the liquid waste site. If there is any spillage, the spillage shall be removed immediately.
- (9) Any person operating a facility handling liquid wastes shall have provisions for accumulating data so as to measure any dust being generated from the property because of the liquid waste. Such equipment shall be capable of monitoring the air on a 24-hour basis and shall be approved by the city, which approval shall be based upon the ability of the equipment to perform as required. Upon request, such information shall be furnished to the city.
- (10) Every person operating a liquid waste disposal system shall be required to obtain a license and pay the fee as set by resolution of the city council from time to time and on file in city hall.
- (11) All liquid wastes placed into the city sewer system shall meet all requirements of this article pertaining thereto.
- (12) There shall be no storage of any liquid waste except for the purpose of treatment. All liquid wastes shall be treated within a reasonable time after being brought to the site.

Sec. 86-325. - Transporting vehicle standards.

All vehicles used for transporting liquid waste shall be completely sealed and shall be in good repair and free from any leaks so as to prevent spillage or discharge any place. All such vehicles shall be clean and odorfree prior to any movement on any city streets.

Sec. 86-326. - State approval required for deposit or storage on city lands.

When required, no person shall engage in the pickup or disposal of liquid waste material to deposit, discharge, store or stockpile such waste material on any lands in the city unless such land has been approved as a site for the disposal of such liquid waste by the state department of natural resources.

Sec. 86-327. - Use of storm drains, inlets, streets, or lands.

No person shall deposit or discharge any liquid waste material into any public or private storm drains, inlets, streets or lands.

Sec. 86-328. - Storage or treatment facilities require pollution prevention plan.

Any person desiring to operate a new facility for the storing or treating of liquid waste shall submit a pollution prevention plan to the city for approval at the time application is made for a building permit for the construction of any structures to be used primarily for the treatment, storage, transfer or handling of industrial wastes. The following shall be included:

- (1) Chemical composition of the liquid wastes to be processed or treated, including estimated volumes or quantities and identification of all toxic elements.
- (2) Chemical composition of the expected resultant effluent, subsequent to treatment, to be discharged to the city sewer, including estimated volumes per day and quantities of heavy metals.
- (3) Complete technological description of the treatment process, including complete plans and specifications of all equipment and structures to be used in the process or at the site.
- (4) Complete description of method of handling wastes, including transporting, loading and unloading, as well as a description of equipment and vehicles used for handling wastes.
- (5) Location of approved disposal sites for any liquid wastes resulting from the company's processing that cannot be discharged into a city sewer.
- (6) Proof of licenses and permits that may be required from other governmental agencies for the hauling and disposal of liquid wastes.
- (7) List of the names and addresses of industries from which liquid wastes will be collected and transported to the facility for treatment, including estimated volumes of liquid waste from each industry and a description of such wastes.
- (8) Methods and equipment that will be used to monitor effectively and measure on a regular basis the quality of the air, groundwater and surface waters, soils and discharge to the city sewer system. Sampling and testing procedures shall be included in the plan as well as the frequency of such sampling and testing.

Sec. 86-329. - Inspection of liquid waste businesses.

The city by its authorized representatives shall have the right at all reasonable times to make inspections of any business subject to the provisions of this division governing liquid wastes.

Secs. 86-330—86-350. - Reserved.

Section 2. This ordinance shall be in full force and effect on \_\_\_\_\_, 2018.

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Kelli A. Vandenberg  
Wyoming City Clerk

Ordinance No. 21-18

ARTICLE III. - SANITARY SEWER SYSTEM  
DIVISION 1. – GENERALLY

Sec. 86-130. - Definitions.

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

(a) *25 percent rule* means that the combined depth of oil and grease and other solids (floating and settled) in any chamber of a trap shall not be equal to or greater than 25 percent of the total operating depth of the trap. The operating depth of a trap is determined by measuring the internal depth from the water outlet invert elevation to the inside bottom of the trap.

(b) *Act* means the Federal Water Pollution Control Act and the Clean Water Act, Public Law 92-500, as adopted in 1972 and amended on February 4, 1987, as amended.

(c) *Alternative discharge limit* means limits set by the city in lieu of the promulgated National Categorical Pretreatment Standards for integrated facilities in accordance with the combined wastestream formula, as established by the EPA.

(d) *Authorized representative* when used in relationship to an ~~of~~ industrial user means:

(1) See CFR 403.12 If the industrial user is a corporation, a director, or a responsible corporate officer such as:

a. President, secretary, treasurer, or vice-president in charge of principle business function, or any other person who performs similar policy or decision making processes for the corporation.

b. A manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second quarter 1980 dollars).

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.

(3) A member of a limited liability company.

(4) For any other entity, any officer, director or board member.

(4) A duly authorized representative of the individuals designated in subsections (1) through and (24) of this definition if:

a. The authorization made in writing by the individuals described in subsections (1) and (2) of this definition and;

b. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having responsibility for environmental matters for the company; and

c. The written authorization is submitted to the city.

(e) *Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures (without the addition of nitrification inhibitors, and expressed in terms of milligrams per liter).

(f) *Building drain* means that part of the lowest horizontal piping of a drainage system that receives ~~the drainage from soil, waste and other drainage pipes~~ wastewater from inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

(g) *Building official* means the director of utilities, building inspector, the city engineer or another designated agent of the city or that individual's designee.

(h) *Building sewers* means the extension from the building drain to ~~the a~~ public sewer or other places of disposal.

(i) *Cesspool* means an underground pit into which raw sewage or other untreated liquid waste is discharged and from which the liquid seeps into surrounding soil or is otherwise removed.

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

(k) *Chlorine demand* means the difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period. The demand for any given water varies with the amount of chlorine applied, time of contact and temperature.

~~(l) *City* means the City of Wyoming, Kent County, Michigan.~~

~~(l) *Combined sewer* means a sewer receiving both surface runoff and sewage.~~

(m) *Combined wastestream* means the wastestream at industrial facilities where regulated process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process. Where required by federal or state law, and only to the extent required by federal or state law, the combined wastestream formula provided in 40 CFR 403 will apply to the limits applicable to a combined wastestream.

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

(o) *Composite sample* means a series of representative samples taken over a specific time period and combined into one sample.

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

~~(q)~~(p) *Debt service charges* means the charges levied to ~~customers~~users of the ~~wastewater~~ system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the sewage works.

~~(r)~~(q) *Director* means the city's director of utilities or ~~the authorized deputy, agent or representative~~that person's designee.

~~(s)~~(r) *Domestic users* means all users of the sewage works ~~where the~~whose discharge into the system is ~~primarily household and human waste~~domestic wastewater.

~~(t)~~(s) *Domestic wastewater* means wastewater consisting primarily of household and human waste.  
~~*Dosing chamber* means a watertight tank or receptacle used for the purpose of retaining the overflow of effluent from a septic tank, pending its automatic discharge to a selected point.~~

~~(u) *Dry well* means a seepage pit.~~

~~(v)~~(t) *Dwelling unit* means the same as found in chapter 90 of this Code (i.e., the city's zoning ordinance).

~~(w)~~(u) *Environmental Protection Agency (EPA)* means the U.S. Environmental Protection Agency, including its administrator or other duly authorized official.

~~(x) *Footing drain* means a pipe or conduit which is placed around the perimeter of a building foundation and which intentionally admits groundwater.~~

~~(y)~~(v) *Garbage* means liquid and solid wastes from the storage, preparation, cooking and dispensing of food and from the growing, handling, storage or sale of produce or other edible products.

~~(z)~~(w) *Grab sample* means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.

~~(aa)~~(x) *Grease trap* means a device designed to separate and retain fats, oils, and grease from liquid waste and permit the liquid waste to discharge into the sewer system.

~~(bb)~~(y) *Holding tank waste* means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks or vacuum-pump tank trucks.

~~(cc)~~(z) *Incompatible pollutant* means any pollutant which is not compatible with biological treatment or removal of which is not designed into the treatment process.

~~(dd)~~(aa) *Industrial wastes* means the wastewater discharges that are not domestic wastewater, wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structures with these characteristics.

~~(ee)~~(bb) *Integrated facilities* means industrial facilities where wastestreams are combined prior to treatment.

~~(ff)~~(cc) *Interference* means any discharge which alone or in conjunction with discharges from other sources, both:

(1) Inhibits or disrupts the POTW and any of its process or operations, or its sludge use or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal.

~~(gg) Laboratory determination means the measurements, tests and analyses of the characteristics of waters and wastes in accordance with the methods contained in the latest edition at the time of any such measurement, test or analysis of Standard Methods for Examination of Water and Waste Water, a joint publication of the American Public Health Association, the American Waterworks Association and the Water Pollution Control Federation or in accordance with any other method prescribed by or approved by EPA or MDEQ.~~

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

~~(ii)~~(ee) *National Pollution Discharge Elimination System permit (NPDES permit)* means a permit issued pursuant to section 402 of the Act (33 USC 1342), as amended.

~~(jj)~~(ff) *National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of section 307(b) of the Act and 40 CFR 403.5, as amended.

~~(kk)~~(gg) *Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

~~(ll)~~(hh) *New source* means:

(1) Any building, structure, facility or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

a. The building, structure, facility, or installation is constructed at a site at which no other source is located;

b. The building, structure, facility or installation totally replaces the process or production equipment that causes discharge of pollutants at an existing source; or

c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility

is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source will be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this definition has commenced if the owner or operator has:

a. Begun, or caused to begin as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or

2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment;

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

~~(mm)~~(ii) *Operation and maintenance* means all work, materials, equipment, utilities, administration and other efforts required to operate and maintain the sewage works including the cost of replacement.

~~(nn)~~(jj) *Pass through* means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

~~(oo)~~(kk) *Penalty* means a charge for discharge of noncompatible substances including pH in violation of the wastewater discharge permit.

~~(pp)~~(ll) *pH* means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

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

~~(rr)~~(nn) *Pollution* means the manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

~~(ss)~~(oo) *Premises* means a lot, parcel or plot of land including the buildings or structures thereon or any part thereof.

~~(tt)~~(pp) *Pretreatment or treatment* means the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sewage works. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 40 CFR 403.6(d), as amended.

~~(uu)~~(qq) *Pretreatment facilities* means devices or structures for use in treating industrial waste prior to entry discharge into public sewers.

~~(vv)~~(rr) *Pretreatment requirements* means any substantive or procedural requirement for treating of a waste prior to discharge to the sewers.

~~(ww)~~(ss) *Pretreatment standards* means National Categorical Pretreatment Standards, alternative discharge limits or other federal, state or local standards, whichever are applicable.

~~(xx)~~(tt) *Private sewage works* means any sewage works or part thereof not connected to a public sewer and shall include, but not be limited to, septic tanks, cesspools and seepage pits.

~~(yy) Properly ground garbage means garbage or vegetable wastes that has been ground to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-eighth of an inch in any dimension. The use of garbage grinder installations are restricted to locations where food is prepared for consumption on the premises. Installation of a garbage grinder with a three-fourths horsepower motor or greater shall be subject to approval by the director.~~

~~(zz) Property from which sanitary sewage emanates means any parcel of land as described in the last recorded deed of conveyance pertaining thereto on which there is located a structure in which water is used or is available for use to household, commercial, industrial or other purposes.~~

(aaa)(uu) *Public nuisance* means anything which is injurious to health, is indecent or offensive to the senses, or is an obstruction to the free use of property so as to interfere with human comfort or enjoyment of life or property, whether affecting individual interests per se or affecting at the same time an entire community or neighborhood of any considerable number of persons, although the extent of the annoyance, interference or damage may not be inflicted equally upon the persons therein.

(bbb)(vv) *Public sewer* means a city sewer or any part thereof.

(ccc)(ww) *Publicly owned treatment works (POTW)* means a treatment works as defined by section 212 of the Clean Water Act, which is owned in this case by the city. This definition includes any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances if they convey wastewater to a POTW treatment plant.

(ddd)(xx) *POTW treatment plant* means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(eee)(yy) *Quality control* means a formal program designed to monitor the reliability (accuracy and precision) of reported analytical results.

(fff)(zz) *Replacement* means the replacement, in whole or in part, of any system equipment ~~in the wastewater transportation or treatment systems~~ to ensure continuous treatment of wastewater in accordance with the NPDES permit and other state and federal regulations.

(ggg)(aaa) *Sanitary sewer* means a sewer designed to carry sewage only.

(hhh)(bbb) *Seepage pit* means an underground enclosure constructed of concrete blocks, bricks or similar material loosely laid with open joints so as to allow the septic tank overflow or effluent to be absorbed directly into the surrounding soil.

(iii)(ccc) *Septic tank* means a receptacle receiving sewage and having an inlet and outlet designed to permit the separation of solids in suspension from such wastes and to permit such retained solids to undergo decomposition therein.

(jjj)(ddd) *Sewage or wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the sewage works.

(kkk)(eee) *Sewage works* means the sanitary sewage collection system any part thereof and the wastewater treatment facility.

(lll)(fff) *Sewer* means a pipe or conduit for carrying sewage.

(mmm)(ggg) *Sewer connection permit* means, as set forth in section 86-137, a written permit issued by the city prior to using, connecting, altering or opening any public sewer or appurtenance thereof.

(nnn)(hhh) *Sewer service charge* means any applicable user charges, surcharges and debt service charges.

~~(eee)~~(iii) *Significant industrial user* means, except as provided in subsection (3) of this definition:

(1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon finding that an industrial user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, determine that such industrial user is not a significant industrial user.

~~(ppp)~~(iii) *Significant noncompliance* means one or more of the following:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit (or grab sample limit) or average limit (or composite limit) for the same pollutant parameter;

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit (or grab sample limit) or the average limit (or composite limit) multiplied by the applicable TRC value (TRC=1.4 for BOD, TSS, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment effluent limit that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in the wastewater discharge permit or other enforcement orders for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations which the city determines will adversely affect the operation or implementation of the local pretreatment program.

~~(qqq)~~(kkk) *Slugload* means any pollutant, including compatible pollutants, released in a single extraordinary discharge episode of such volume or strength as to cause interference to the sewage works.

~~(rrr)~~(lll) *Standard industrial classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended.

~~(sss)~~(mmm) *Storm sewer or storm drain* means a sewer designed to carry stormwater and surface water and drainage only.

(~~ttt~~)(~~nnn~~) Subsurface disposal field means a system for the distribution of septic tank overflow or effluent below the ground surface through a line or a series of branch lines, of drain tile laid with open joint to allow the overflow or effluent to be absorbed by the surrounding soil throughout the entire field.

~~(uuu) — Superintendent means the wastewater treatment plant superintendent, or his duly authorized representative.~~

~~(~~vvv~~)(~~ooo~~)~~ Surcharge means a charge to cover the cost of treating sewage which exceeds limits as established in this article. A surcharge is appropriate to cover costs of treating extra strength compatible waste which are authorized by order of determination. A surcharge is not acceptable as a sole remedy for violations of limits.

~~(~~www~~)(~~ppp~~)~~ Suspended solids means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

~~(~~qqq~~)~~ System means the City's sanitary sewer system including all collection lines, mains, pumps, chambers, the POTW and all components and facilities.

~~(~~xxx~~)(~~rrr~~)~~ Toilet device means a privy, outhouse, septic tank, septic toilet, chemical closet or other device designed for the disposal of human excreta.

~~(~~yyy~~)(~~sss~~)~~ Total toxic organics (TTO) means total toxic organics, which is the summation of all quantifiable values greater than 0.01 milligrams per liter for toxic organics listed in the federal categorical pretreatment standards or as defined by the director.

~~(~~zzz~~)(~~ttt~~)~~ Toxic pollutant means any pollutant or combination of pollutants which is or can potentially be harmful to the public health, treatment or environment, including those listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency, under the provisions of CWA 307(a) or other acts, as amended.

~~(~~aaa~~)(~~uuu~~)~~ Upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of ~~factors~~facts ~~conditions~~ ~~or circumstances~~ beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

~~(~~bbb~~)(~~vvv~~)~~ User means any person who contributes, causes or permits the contribution of wastewater into the sewage works.

~~(~~eee~~)(~~www~~)~~ User charge means a charge levied to users of a treatment works for the cost of sewage works including operation, maintenance and capital charges.

~~(~~ddd~~)(~~xxx~~)~~ User class means the kind of user connected to sanitary sewers including, but not limited to, the following:

- (1) ~~Residential~~Domestic user. A user of a dwelling unit discharging domestic wastewater.
- (2) Industrial user. Any user that discharges any industrial wastewater ~~non~~domestic user which ~~also~~or that contributes, causes or permits the contribution or introduction of wastewater or pollutants into the POTW, whether intentionally or unintentionally, and whether directly or indirectly. ~~For purposes of this article, industrial users may also meet the definitions of governmental, commercial or institutional users.~~
- (3) ~~Commercial user~~. ~~Commercial users are divided into two categories, namely commercial domestic and commercial industrial. Commercial industrial means any commercial user where there is or can be any discharge into the sewage system other than normal domestic waste because of the particular type of operation including, but not limited to, carwashes, bakeries and restaurants. All other commercial users shall be called commercial domestic.~~
- (4) ~~Institutional~~. ~~Any establishment involved in a social, charitable, religious or educational function which, based on a determination by the director discharges primarily domestic waste.~~
- (5) ~~Governmental~~. ~~Any federal, state or local governmental unit or agency.~~

~~(eeee)~~(yyy) *Wastewater* means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions including, without limitation, contaminated groundwater and landfill leachate, whether treated or untreated, that is contributed, introduced or discharged into the POTW.

~~(ffff)~~(zzz) *Wastewater discharge permit* means as set forth in section 86-251, a written permit issued by the director to nondomestic users of the POTW.

~~(gggg)~~(aaaa) *Watercourse* means a channel, natural or artificial, in which a flow of water occurs, either continuously or intermittently.

~~(hhhh)~~(bbbb) *Waters of the state* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Sec. 86-131. - Abbreviations.

The following abbreviations shall have the designated meanings:

- (1) *BOD*, ~~means~~ biochemical oxygen demand;
- (2) *CFR*, ~~means~~ Code of Federal Regulations;
- (3) *COD*, ~~means~~, chemical oxygen demand;
- (4) *EPA*, ~~means~~, United States Environmental Protection Agency;
- (5) *L*, ~~means~~, liter;
- (6) *MDEQ*, ~~means~~, ~~state~~ Michigan department ~~Department~~ of ~~environmental~~ Environmental quality Quality;
- (7) *mg*, ~~means~~, milligrams;
- (8) *mg/l*, ~~means~~, milligrams per liter;
- (9) *NPDES*, ~~means~~, National Pollutant Discharge Elimination System;
- (10) *SIC*, ~~means~~, standard industrial classification;
- (11) *SS*, ~~means~~, suspended solids;
- (12) *TTO*, ~~means~~, total toxic organics;
- (13) *USC*, ~~means~~, United States Code;
- (14) *O&M*, ~~means~~, operation and maintenance;
- (15) *CWA*, ~~means~~, Clean Water Act;
- (16) *µg*, ~~means~~, micrograms;
- (17) *POTW*, ~~means~~, publicly owned treatment works;
- (18) *ppm*, ~~means~~, parts per million;
- (19) *ppb*, ~~means~~, parts per billion;
- (20) ppt means part per trillion.
- ~~(2021)~~ *MG*, ~~means~~, million gallons;
- ~~(2422)~~ *gpd*, ~~means~~, gallons per day;
- ~~(2223)~~ *Cd*, ~~means~~, cadmium;
- ~~(2324)~~ *Cr*, ~~means~~, chromium;
- ~~(2425)~~ *Cu*, ~~means~~, copper;

- (2526) ~~Pb~~ means ~~-,~~lead;
- (2627) ~~Ni~~ means ~~-,~~nickel;
- (2728) ~~Zn~~ means ~~-,~~zinc;
- (2829) ~~CN~~ means ~~-,~~cyanide;
- (2930) ~~Ag~~ means ~~-,~~silver;
- (3031) ~~Hg~~ means ~~-,~~mercury;
- (3132) ~~As~~ means ~~-,~~arsenic; and
- (3233) ~~Be~~ means ~~-,~~beryllium.

Sec. 86-132. - ~~Water pollution-Designation of officials and agencies.~~

~~Whenever this article refers to any governmental agency it shall include any successor or replacement agency. Whenever this article refers to any governmental officer or official, it shall include that officer or official's successor and designee(s). No person shall discharge nor allow to be discharged into any natural outlet or watercourse within the city or in any area under the jurisdiction of the city, any sewage, industrial waste or other pollution.~~

Sec. 86-133. - ~~Water pollution; A~~abatement of water pollution.

~~(a) No person shall discharge or allow to be discharged into any natural outlet or watercourse within the city or in any area under the jurisdiction of the city, any sewage, industrial waste or other pollution.~~

~~(b) If Whenever~~ the building official determines from any investigation that there is a health or environmental hazard caused by sewage from any property being exposed to the surface of the ground or being permitted to drain under the surface of the ground or into any ditch, storm sewer, lake or stream, or that the presence of any sewage on the property has an obnoxious or detrimental odor or creates a public nuisance, the owner of such property must connect to the public sewer forthwith, whenever such property abuts any public right-of-way in which a public sanitary sewer is located, and the structure is within 200 feet of said sanitary sewer. If such property does not abut a public right-of-way in which a public sanitary sewer is located within 100 feet from an intersection of any line of the property with such right-of-way, the owner of such property shall forthwith construct, repair or replace the private sewage works so that the conditions which led to the determination by the building official are abated.

Sec. 86-134. - Private sewer system.

~~Whenever If~~ property does not meet the 100-foot requirement of section 86-133, the building sewer of the property shall be connected to a private sewage works which shall be operated in a sanitary manner at all times. At such time as the property is connected to the public sewer, the property owner is responsible for all maintenance that is required for that portion of the connection located outside the city right-of-way or easement.

Sec. 86-135. - Disposition of private system upon connection to public sanitary sewer.

~~Whenever If~~ any property is connected to a public sanitary sewer and there exists on the property a septic tank, cesspool, seepage pit or other similar private sewage facility, any sewage in the septic tank, cesspool, seepage pit or other similar private sewage facility shall be removed and disposed of in a sanitary manner, and the septic tank, cesspool, seepage pit or other private sewage facility shall be filled with sand or gravel.

Sec. 86-136. - Construction, repair or enlargement of private sewage works.

No private sewage works may be constructed, repaired or enlarged if any part of a residential structure, excluding any attached garage, on said property is within 200 feet of a public sanitary sewer, except as provided for in section 86-133.

Sec. 86-137. - Sewer connection permit—Generally.

No person shall uncover nor make any connections with, or openings into, use, alter or disturb any public sewer or appurtenance thereof, without obtaining a written permit from the city. All permit applications for industrial connections shall contain information outlined in section 86-253. Information submitted shall be approved by the director prior to issuance of a permit. Any sewer connections or work done within the city's right-of-way shall require a street opening permit from the city engineer.

Sec. 86-138. - Same—Classification.

There shall be two classes of building sewer permits:

- (1) Residential and commercial domestic; and
- (2) Commercial industrial and industrial.

In either case, the owner or ~~his-the owner's~~ agent shall make application on the form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent by the city. Applications for an industrial or commercial industrial permit shall be submitted with a copy to the wastewater department. Permit and inspection fees shall be paid in the amounts specified from time to time by resolution of the city council ~~from time to time and on file in the city hall.~~

Sec. 86-139. - Multiple sewer connection system.

A separate and independent building sewer shall be provided for each building. However, where any existing building is so located on an interior lot so that no private sewer is available nor can one be constructed to the building through an adjoining alley, courtyard or driveway, more than one building may be served with the same building sewer subject to approval by the city. In areas where laterals have not been constructed to the property and complete street improvements have been made or where unusual lot splits have occurred leaving only one lateral for two properties, if there is no health or other danger, the director may approve joint use of ~~this-that~~ lateral ~~may be approved by the city engineer~~ with the connection being made to the city sewer ~~if there is no health or other danger~~. All discharge limits ~~contained~~ in this article apply to that portion as the lateral emanating from a single building. Compliance with pretreatment standards or local discharge limits prescribed by this article shall be determined within each tributary to the common lateral prior to commingling with other wastewater.

Sec. 86-140. - Existing building sewer examination.

Existing sewers shall meet all requirements of this article. Whenever any examination determines that an existing building sewer does not meet the requirements of this article and the building official determines that the connection is creating a health hazard, odor or public nuisance, or environmental hazard the sewer shall be reconstructed at the owner's expense.

Sec. 86-141. - City of Grand Rapids sanitary sewer system.

~~In the event~~ if a significant industrial user located in the city is connected to the sanitary sewer system of the City of Grand Rapids, the terms of the City of Grand Rapids Sewer Use Ordinance (~~Chapter 27 of the Grand Rapids City Code~~ as amended), and the Interjurisdictional Agreement (IJA) executed by both the City of Grand Rapids and City of Wyoming pursuant to MCL 124.1 *et seq.*, ~~as amended~~, shall apply and are hereby incorporated by reference. Copies of the relevant portion of the Grand Rapids City Code and the IJA are on file with the city clerk and available to the public.

Secs. 86-142—86-160. - Reserved.

## DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 86-161. - Rates, surcharges and penalties to be set by city council.

Rates, surcharges and penalties shall be paid by the user as set by resolution of the city council from time to time and on file in the city hall.

Sec. 86-162. - Surcharge calculation and billing; penalty for violation of wastewater discharge permit.

(a) *Calculation formula.* All nondomestic users of the city sewage works shall pay a surcharge for effluent containing the compatible pollutants in excess of baseline concentrations specified in section 86-292. For suspended solids, BOD, COD, phosphorus, grease and oil, or other specific compatible pollutants, the

city may accept payment in lieu of the user meeting baseline concentration limits, subject to section 86-292. The city may use the test results from a COD analysis as an alternative means of surcharging for BOD. Surcharges for compatible pollutants shall be calculated as follows:

$$(\text{Average} - \text{Baseline}) \left( \frac{\text{mg}}{\text{L}} \right) \times \text{Flow (Mgal)} \times \text{Rate} \left( \frac{\$}{\text{lb}} \right) \times 8.34$$

(b) *Sampling methods and billing.* The city shall collect at least three composite or grab samples quarterly and base the surcharge cost upon such samples. If the director determines based on information made available to the director that more frequent sampling may more accurately provides a basis for the amount of surcharges, the city may collect more frequent sample and base the surcharge on the more frequent sampling. If the user does not agree with the sampling or testing method of the city, the city may agree to an independent company, approved by the city, taking such samples, at the user's expense, under conditions and standards as determined by the city. The surcharge shall be calculated and billed quarterly by the city unless another time period is designated by the director (e.g., monthly). City employees and officials shall not be involved directly or indirectly with any company performing tests on any samples where such tests are to be used by the city.

(c) *Penalties for violation of discharge permit.* A violation of a wastewater discharge permit is a municipal civil infraction. The city council may from time to time by resolution establish Penalties-penalties listed in a resolution set by the city council from time to time and on file in city hall shall be assessed for violation of ~~the a user's~~ wastewater discharge permit. Penalties may be based on either a grab, composite or in the case of pH, on the basis of results from a pH recorder. Penalties will be assessed for any sample exceeding limits ~~listed in established from time to time by~~ a resolution ~~set by of~~ the city council ~~from time to time and on file in city hall~~. Unless otherwise specified in such a resolution ~~set by the city council from time to time and on file in city hall~~, any user who ~~is found to have violated-violates~~ any provision of this article, or permits issued under this article, shall be penalized in an amount not ~~to exceed to exceed less than~~ \$10,000.00 (or the maximum penalty allowed under state law). Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Payment of penalties does not constitute compliance with the permit. In addition to these penalties, (i) those violating this article shall be subject to all other consequences of such violations as provided in this article and, (ii) continued, habitual or gross violations or those caused by negligence or failure to install and operate property pretreatment units will be enforced under sections 86-165, 86-167 and 86-297.

Sec. 86-163. - Delinquent accounts.

~~Should any monies~~If any amounts owed to the city for the use of the public sewer system ~~be unpaid are not timely paid as required by this article, other parts of this code of ordinances, the terms of any contract, or the terms of any arrangement made with the city to pay such amounts,~~ the city may pursue all remedies available at law or in equity including, to the extent not otherwise precluded or limited by law, one or more of the following: collect same by one or more of the following methods:

- (1) ~~Litigation;~~A lawsuit against the property owner or any other person responsible for payment;
- (2) ~~Shutting-Suspending, terminating or otherwise off and~~ discontinuing city sanitary sewer service, water service or water or both services to the premises;

(3) Setting off the unpaid amounts against any amounts owed by the city to the owner of the premises or other responsible party; or

~~(34)~~Certifying such charge to the city assessor who shall assess the charge against the lot or parcel of land upon which is situated the premises served. The assessment shall then be collected or returned in the same manner as real property taxes.

The city may also require an escrow deposit against future delinquent payments of such amounts. The deposit may be up to an estimated one-quarter's billing for sanitary sewer service, including any estimated surcharges, late payment fees, and interest. The deposit shall be held in a non-interest bearing escrow account to be used an applied against any amounts due for sanitary sewer service that are not paid when due. The amount used from the escrowed funds will be added to the amounts owed

such that the user shall be obligated to maintain that escrow and timely pay all charges for sanitary sewer service in order to preclude use of the remedies provided in this section.

Sec. 86-164. - Public nuisance abatement.

A violation of this article is a public nuisance per se. The director or the building official may require the abatement of any public nuisance under this article by giving the owner of such property notice to eliminate such conditions. The time limit shall be stated in the notice commensurate with the type of nuisance. The directo building official ~~shall have the power to may~~ discontinue water and sewage service to the property if the owner or other responsible party fails to abate such nuisance. All work required to abate such nuisance shall be performed in compliance with this article at the owner's expense. Alternatively, or in addition, the city attorney may bring a lawsuit to abate the nuisance

Sec. 86-165. - Harmful contributions.

The ~~city manager~~director may suspend sewer and water service when such suspension is necessary to stop an actual or threatened discharge which may present an imminent or substantial endangerment to the health or welfare of persons or the environment, cause interference to the sewage works or cause the city to violate any condition of its NPDES permit. Any person notified of a possible suspension of water or wastewater treatment service shall immediately stop or eliminate the contribution. ~~In the event of a failure f that person of the person fails~~ to voluntarily comply with any discharge permit, the city may take such steps as deemed necessary including immediate suspension of sewer and water service, to prevent or minimize damage to the sewage works or endangerment of any individuals. The ~~city manager~~director shall reinstate the sewer and water and service upon proof of the elimination of the noncomplying discharge provided the city manager determines necessary steps have also be taken to prevent recurrence of such noncompliance. The noncomplying user shall submit to the director Aa detailed written statement ~~submitted by the user~~ describing the cause(s) of the ~~harmful contribution noncompliance~~ and the measures taken to prevent any ~~future ore~~ recurrence ~~shall be submitted to the city~~ within 15 days of the date of occurrence.

Sec. 86-166. - Official determination of hazard.

~~Whenever~~ If the building official determines that there is a health or welfare hazard created by the emanation of sewage by being exposed to the surface of the ground or draining of sewage from the property under the surface of the ground or into any ditch, storm sewer, lake or stream and that the continuance of the use of the private sewage works ~~by for~~ the property poses an immediate threat to humans or natural resources, the building official may order and require the occupants to vacate any structure on the property forthwith.

Sec. 86-167. - Notification of violation of article.

~~Whenever~~ If the city finds that any user ~~has violated or is violating~~ has failed to comply with or is failing to comply with any provision of this article, the city may serve upon such person a written notice stating the nature of the ~~violation noncompliance and require a plan to correct it and prevent recurrence.~~ Within 30 days of the date of the notice or such shorter time as the city may require in the notice in order to protect the environment or the public health, safety or welfare, a plan for the satisfactory correction of all violations shall be submitted by the user to the city for approval. ~~A shorter notice commensurate with the danger to the health and welfare of persons or environment may be given.~~ Failure to respond in 30 days, or shorter time as provided in the notice, or to develop a satisfactory plan shall constitute an additional violation of this article, and the city shall take such action as deemed necessary, including suspension of water or sewer service, or both.

Sec. 86-168. - Show cause hearing.

(a) *Request for hearing.* Any user subject to enforcement action under the provisions of this article may, within 10 days, make a written request for a hearing before the ~~director the city manager~~ which request shall be filed with the director or the city clerk within ten days of receipt of notification of such action. If any user so requests a hearing, the city manager shall hold Aa ~~hearing is to be held by the director~~ concerning the violation, ~~the any~~ reasons for the action, remedial actions taken following the violation, steps and plans to prevent further noncompliance with this article, and any proposed enforcement

actions. The city manager shall allow ~~and directing~~ the user to show cause why the proposed enforcement action should not be implemented.

(b) *Conduct of hearing.* The ~~director-city manager~~ may conduct the hearing and take the evidence or may designate any officer or employee to:

(1) Issue in the name of the ~~director-city manager~~ notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(2) Take the evidence, inquire of witnesses or other persons presenting information or arguments, review any exhibits or records, allow for any pre-hearing or post-hearing written submissions; and

(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the ~~director-city manager~~ for action thereon.

(c) *Testimony; transcription; advice.* At any hearing held pursuant to this article, testimony taken may, but doesn't need to be, under oath and recorded ~~stenographically~~. The transcript will be made available to any member of the public or any part to the hearing upon payment of charges for copying. Rules of civil procedure and rules of evidence do not apply. Information normally relied upon in the conduct of serious business may be presented and considered. While either the city or the user may be represented by legal counsel, legal counsel is not required. The city manager or the person designated by the city manager to conduct the hearing may consult with the city's legal counsel as either deems needed or helpful.

(d) *Issuance of orders and directives.* After the ~~director-city manager~~ has reviewed the evidence available information, an order may be issued to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless acceptable treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities and that such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(e) *Surcharges and fees.* The ~~director-city manager~~ may also establish appropriate surcharges or fees to reimburse the city for the additional cost of operation and maintenance of the wastewater treatment works due to any violations of this article.

(f) *Appeals.* Any order or directive by the ~~director-city manager~~ may be appealed to a board of referees consisting of two registered professional engineers authorized to practice in Michigan who experience in wastewater issues, one of who shall be selected by the city and one by the user, and a third engineer selected by the first two engineers. Neither None of such referees three engineers shall be in the employ of, a party to any contract with, or an officer or employee of a party to a contract with the party making the selection either the city or the user. The appeal shall be made in writing to the director within ~~ten-10~~ days of any order or directive resulting from the hearing before the ~~director-city manager~~. Selection of referees shall be made within ~~ten-10~~ days of the filing of the appeal.

(g) *Determination by director; reply of appellant; decision.* Within ~~ten-10~~ days after receiving notice of the selection of the referees, the ~~director-city manager~~ shall file with the referees a copy of his determination and the results of his investigation supporting such determination. Within ~~ten-10~~ days thereafter the appellant shall file its reply together with supporting documentation. The referees may thereafter require additional information and may, if they choose, hold a hearing at which both sides may present evidence and arguments. The referees shall, by a majority vote, render a written opinion within ten days after the last documents are filed, and such opinion shall be binding upon all parties. If the referees cannot agree, they shall select a third referee having the same qualifications, and a decision of the majority shall be binding. If the referees cannot agree to a third referee, the city council shall select the third referee. The review by the referees shall be *de novo* but based on the information that was in the record at the completion of the city manager's hearing.

(h) *Compensation of referees.* The referees shall be entitled to reasonable compensation and expenses with the costs to be borne equally by the city and the user.

(i) *Judicial review.* Any party may seek judicial review of a referee decision in circuit court. The circuit court shall uphold the ~~director~~ city manager's decision if it is based on competent, material and substantial evidence.

Sec. 86-169. - Legal action.

If any person discharges sewage, industrial wastes or other wastes into the city's wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate relief.

Sec. 86-170. - ~~Falsifying~~ False information.

No person shall knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article nor shall falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this article.

Sec. 86-171. - Affirmative defense.

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions of this article and the specific prohibitions in subsections (2), (4), ~~(7)~~, (8), (10) and (12) of section 86-291 where the user can demonstrate that:

(1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(2) Either:

a. A local limit designed to prevent pass through or interference was developed for each pollutant in the user's discharge that caused pass through or interference and the user was in compliance with each such local limit immediately before and during the pass through or interference; or

b. A local limit was not applicable and immediately before and during the pass through or interference the user's discharge did not substantially change in volume or constituents from the user's previous discharges when the POTW was regularly in compliance with its NPDES permit and, in the case of interference, all applicable requirements for sludge use or disposal.

Sec. 86-172. - Publication of list of industrial users in significant noncompliance.

As required by federal regulations, ~~40 CFR 403.8(f)(2)(vii)~~, the city shall at least annually, before April 1, publish in a newspaper of record a list of industrial users which during the previous calendar year were in significant noncompliance of applicable pretreatment standards or other pretreatment requirements. For the purposes of this section significant noncompliance is defined in section 86-1304.

Sec. 86-173. - Conflicts.

Should any existing agreements, orders or permits be in conflict with this article, then they shall be revised so as to comply with this article. ~~Any conflict with this article would be in violation of 40 CFR 35.929 which requires a users charge system under which each user bears a portion or share of wastewater treatment plant operation and maintenance cost.~~

Sec. 86-174. - Municipal civil infraction—Penalty.

Any violations of the provisions of article ~~III of this chapter~~ not specifically designated a misdemeanor shall be a civil infraction for which the user shall be responsible for a civil fine in the amount of up to less than \$10,000.00 for each violation.

Sec. 86-175. – Other amounts owed for violations.

In addition any other amounts or remedies under this article, anyone violating or responsible for a violation of any provision of this article shall be responsible for paying all costs incurred by the city as a result of such violation, including for example and not for limitation, (i) any fines or penalties the city may be obligated to pay as a result of such violation or any violation of any permit issued to the city that results from the person's violation of this article, (ii) any costs incurred to reactivate, repair, improve, or replace

any part of the system or any processes within the system, (iii) any costs for engineering, legal, environmental consultant or other professional services, (iv) any overtime or other personnel costs, (v) the cost of any contract services such as hazardous waste disposal costs, added sludge handling or disposal costs, pumping costs, laboratory fees, or other expenses, (vi) added materials costs such as in the city's laboratory; (vii) added special equipment costs such as pumps or payments for use of equipment in the city's motor pool, (viii) any publication or public information expenses, (ix) costs of any special clothing for or to replace any clothing or personal articles of city personnel, (x) any filing fees, appeals costs, collection expenses, discovery costs, cost of exhibits, or other expenses related to any legal or administrative proceeding, (xi) any first aid or medical expenses for due to any illness, injury or reasonable diagnostic test needed to rule out any illness or injury to any city employee or agent, and (xii) any costs the city is obligated to pay any third party such as another user of the system, including any incidental or consequential damages paid to any such third party.

Secs. 86-~~175176~~—86-200. - Reserved.

### DIVISION 3. - BUILDING SEWERS

Sec. 86-201. - Material specifications.

All materials used on construction of laterals and building sewers shall be of the type approved by the applicable ~~plumbing or building construction~~ code and as required by the city.

Sec. 86-202. - Pipe size.

The size of a residential building sewer shall not be less than ~~four~~ 4 inches in diameter. All other sewer sizes shall be determined by the city based upon the type of facility and the applicable ~~plumbing or building construction~~ code.

Sec. 86-203. - Sewer slope.

Building sewers shall be constructed to slopes consistent with the provisions of the applicable plumbing code, but not less than ~~one-eighth of an~~ 1/8-inch per linear foot.

Sec. 86-204. - Location and elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. Building sewers shall not be laid parallel to nor within ~~three~~ 3 feet of any bearing wall. The depth shall be sufficient to be protected against frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in alignment shall be made only with properly curved pipe or long radius fittings. Changes in direction having bends of 45 degrees or more shall have a cleanout.

Sec. 86-205. - Floor drains.

Floor drains which are connected to the building sewer shall be required for all basements or cellars if the elevation of the public sanitary sewer will service the building.

Sec. 86-206. - Lift pump.

In all buildings in which any building drain is too low to permit gravity flow to the building sewer, sanitary sewage carried by such drain shall be lifted by means of a ~~sump~~-pump or other approved means and discharged into the building sewer.

Sec. 86-207. - Construction procedures to be in accordance with city's standard construction specifications; exception.

All construction procedures shall be in accordance with the city's standard construction specifications, with the exception that tunneling of laterals will be allowed if it is determined that the proper alignment and slope can be maintained on the lateral.

Sec. 86-208. - Grease, oil and sand interceptors.

(a) All establishments where food is manufactured, sold or prepared, except for small areas designated as employee break areas or the equivalent, discharging wastewater containing fats, oils, and grease (FOG) to the ~~City of Wyoming sewage works and/or the POTW system~~ shall install, operate, and maintain a sufficiently-sized oil and grease, water and solids separator (hereinafter called grease trap) necessary to achieve and maintain compliance with the limits indicated in section 86-292 ~~of this Code~~.

(b) Unless otherwise authorized by the director, all grease traps shall be of the outdoor, inline variety. With special authorization by the director, grease traps of the indoor, under-counter, stand-alone variety may be allowed. In this case, maintenance of indoor grease traps shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25 ~~percent-%~~ rule" as defined herein. Under no condition shall an indoor grease trap be cleaned at intervals less frequent than once every 14 days.

(c) Grease, oil and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. Such interceptors shall not be required for dwelling units. All interceptors shall be of a type and capacity approved by the director and shall be located so as to be readily accessible for cleaning and inspection.

(d) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(e) Where installed, all grease, oil and sand interceptors shall be cleaned and maintained by the owner and shall be operated continuously in an efficient manner whenever the facility is in operation. The city shall have the right to inspect maintenance and disposal records related to the operation of grease, oil and sand interceptors.

(f) The user shall be responsible for the proper removal and legal disposal of the grease trap waste. All waste removed from each grease trap must be disposed of at a facility permitted to receive such waste. No grease trap pumpage may be discharged to the city sewer system. Maintenance shall include the complete removal of all contents, including floatable materials, wastewater, sludges and solids and jet flushing to remove measurable build-up on tank walls. Top skimming of outdoor grease traps, decanting or back flushing of the grease trap or its wastes for the purpose of reducing the volume to be hauled is prohibited.

(g) There shall be ample room and reasonable access to interceptors to allow accurate sampling and preparation of samples for transport and analysis.

(h) Grease traps and other interceptors shall be installed in compliance with the current plumbing codes adopted by the city. The director shall make final determination and approval of a grease trap's size. If additional pretreatment and/or maintenance is required to meet the provisions in this section, the director, may require that the establishment in existence prior to the effective date of this section upgrade to the requirements provided.

(i) Maintenance of an outdoor grease trap shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25 percent rule" and at intervals no less than once every 90 days.

(j) Use of any bacteriological, chemical or enzymatic addition for the purpose of maintaining a grease trap is prohibited unless written approval is obtained from the director.

(k) The user shall be responsible for maintaining records and/or manifests as to the dates of service, quantity and waste hauler name at the user's location for a period of three years, which records shall be subject to review by the city without prior notification.

(l) Should any user fail to properly clean and maintain a grease trap as required herein, the city, at its option may contract for appropriate cleaning and maintenance by a licensed contractor, the cost of which shall be collectable by the city from the user at a charge of actual cost plus 100 ~~percent%~~.

Sec. 86-209. - Tests.

All tests of building sewers shall be made in conformance with the applicable plumbing code.

Sec. 86-210. - Completion notification.

The applicant for the building sewer permit shall notify the plumbing inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city's plumbing inspector.

Secs. 86-211—86-250. - Reserved.

#### DIVISION 4. - PUBLIC SEWER USE

##### Subdivision I. - In General

Sec. 86-251. - Wastewater discharge permits—Generally.

The director shall by written permit establish the maximum relative strength of sewage and industrial waste to be discharged into the public sewer by nondomestic users. Prior to the initial issuance of a permit or 90 days prior to the expiration of an existing permit, nondomestic users shall submit the information outlined in section 86-253. Wastewater discharge permit fees shall be paid in the amount as set ~~from time to time~~ by resolution of the city council ~~from time to time and on file in city hall~~. Permits shall contain, at a minimum, the following conditions:

- (1) A statement of duration (in no case more than five years);
- (2) A statement of nontransferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (3) Effluent limits based upon applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based upon general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; and
- (6) A statement to enable authorized representatives of the POTW, state, and EPA to enter and inspect the premises of nondomestic users.

Sec. 86-252. - Same—Review and adjustment.

Any permit issued by the director ~~may~~ shall be periodically, not less frequently than once every 5 years, reviewed and adjusted.

Sec. 86-253. - Wastewater contribution information.

(a) *Information required.* All nondomestic users proposing to connect to or to contribute to the sewage works shall submit information on their processes and wastewater to the city before connecting to or contributing to the sewage works. All existing industrial users connected to or contributing to the sewage works shall submit this information upon request of the director. At least 90 days prior to the commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the city a report which contains the information in this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (a)(4) and (a)(7) of this section. The information submitted shall be sufficient for the city to determine the impact of the user's discharge on the sewage works and the need for pretreatment. Any statements or information submitted in connection with this section shall be signed by an authorized representative of the company. The user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name of the operator and owners, facility name, address and location.

- (2) A list of any environmental control permits held by or for the facility.
- (3) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (4) Measurement of pollutants. For industrial users subject to categorical pretreatment standards, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by standard or control authority) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass where required) shall be reported. The sample shall be representative of daily operations.
  - a. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The city may waive flow proportional sampling for any industrial user that demonstrates that flow proportional sampling is infeasible. In such cases samples must be obtained through time proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
  - b. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this section.
  - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula.
  - d. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the director determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties approved by the director.
  - e. If this report is a baseline report, the city may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures. The baseline report shall indicate the time, date and place of sampling; the methods of analysis; and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (5) Average rate of production.
- (6) Time and duration of contribution.
- (7) Average daily and maximum wastewater flow rates from all regulated process streams and other waste streams as necessary to allow use of the combined wastestream formula, including daily, monthly and seasonal variations, if any. The control authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
- (8) Industries identified as significant industries or subject to the national categorical pretreatment standards or alternative discharge limits or those required by the city must submit site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation. For industrial users subject to categorical pretreatment standards, a schematic process diagram identifying the location of points of discharge from all regulated processes as well as the pretreatment standards applicable to each regulated point of discharge shall also be submitted.
- (9) Description of activities, facilities and plant processes on the premises including all materials or pollutants which are or could be discharged.

(10) The user shall submit a certification statement reviewed and signed by an authorized representative indicating whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required by the industrial user to meet applicable pretreatment standards.

(11) If additional pretreatment or O&M will be required to meet the pretreatment standards, the user will provide the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the user to meet the applicable pretreatment standards.

b. No such increment shall exceed nine months.

c. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay; and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such increments of progress.

(12) Type and amount of raw materials.

(13) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(14) Location of sampling manhole.

(15) Any other information as may be deemed by the city to be necessary to evaluate the impact of the discharge on the sewage works.

(b) *Hazardous waste information requirement.* Any industrial user must inform the appropriate authorities upon discharge of hazardous waste as follows:

(1) Any industrial user shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of the constituents in the wastestream expected to be discharged during the following 12 months. Industrial users shall provide this notification no later than 180 days after the discharge of the listed or characteristic hazardous waste commences. Any notification under this section need be submitted only once for each hazardous waste discharged. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements in this article.

(2) Dischargers are exempt from the requirements of subsection (b)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 40 CFR 261.33(e) requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous wastes or listing any additional substances as hazardous wastes, the industrial user must notify the POTW, the EPA regional waste management waste division director, and the state hazardous waste authorities of the discharge of such substances within 90 days of the effective date of such regulations.

(4) In the case of any notification made under subsection (b) of this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

(c) ~~[Maintenance of records.]~~ All users shall be required to maintain records of wastewater contribution information for a period of at least three years.

Sec. 86-254. - Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user and that such information need not be disclosed in accordance with any applicable Freedom of Information Act or any other applicable law. When requested by the person furnishing a report which might disclose trade secrets, such report shall be kept confidential to the extent permitted by law except that the report shall be made available upon written request to governmental agencies for uses related to this article, the NPDES permit or any pretreatment programs, and it 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.

(b) Information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city until and unless a ten-day notification is given to the user ~~and in accordance with applicable law.~~ If any applicable state or federal law, rule or regulation conflicts with any provision in this article by requiring a greater degree of disclosure, that state or federal law, rule or regulation shall govern.

Sec. 86-255. - Wastewater discharges.

No person shall discharge into the waters of the state within the city or in any area under the jurisdiction of the city or to the ~~sewage works any wastewater system~~ except as authorized by the director in accordance with the provisions of this article.

Sec. 86-256. - Liquid discharges.

No person shall discharge or cause to be discharged any type of liquid into any ~~sanitary sewer unless specifically permitted by the director~~ except in accordance with this article.

Sec. 86-257. - Waste hauler discharges.

Waste haulers ~~who are~~ authorized to discharge into the POTW shall be required to pay fees ~~as established from time to time by resolution of the city council from time to time and on file in the city hall,~~ in addition to any surcharges. Discharge shall be allowed only at such points as designated by the city. Waste haulers applying for discharge authorization shall submit the information requested in section 86-253 prior to receiving authorization.

Sec. 86-258. - Discharge regulations, charges and fees.

Wastewater discharges shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. In addition, the city may:

(1) Establish unit charges, surcharges or a schedule of user charges and fees for the wastewater to be discharged into the sewage works;

(2) Limit the average and maximum wastewater constituents and characteristics;

- (3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;
- (4) Require the installation and maintenance of inspection and sampling facilities;
- (5) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Establish compliance schedules;
- (7) Require submission of technical reports or discharge reports;
- (8) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the city, and affording city access thereto, and copying thereof;
- (9) Require notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Require notification of slug discharges;
- (11) Require other conditions as deemed appropriate by the city to ensure compliance with this article.

Sec. 86-259. - Monitoring facilities.

(a) The city may require a user to provide, maintain and operate monitoring facilities at the user's expense. Such facilities may include any or all of the following: a source of power, a sampling manhole meeting the specifications required by the city, an approved sampler, and flow monitoring devices as required by the director to allow for inspection, sampling and flow measurement of the building sewer and internal drainage systems. Such facilities shall be kept free of snow, parked vehicles or other obstructions. The monitoring facility shall be situated on the user's premises in an area accessible to a vehicle, but the city may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the city and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city of requiring such facilities unless the completion date is extended by the director at his discretion.

(b) Flow measurement devices on building sewers shall be checked and necessary repairs made on an annual basis. Such maintenance and checks shall be performed by the equipment manufacturer or an authorized designee who shall certify in writing to the director as to the accuracy of the equipment.

Sec. 86-260. - Meters required.

All users shall have meters on all water sources that ultimately discharge into the sewage works or shall meter the liquid wastes at the point of discharge into the sewage works. All meters and metering plans shall be approved by the city.

Sec. 86-261. - Inspection and sampling.

(a) The city may inspect the facilities, premises and facilities of any user to ascertain whether the requirements of this article are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the city's representatives access to all parts of the premises for the purposes of inspection, sampling, records examination, record copying or any other task necessary in the performance of their duties. Nondomestic users shall be subject to inspection fees as stipulated by resolution of the city council from time to time and on file in city hall.

(b) The city shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations. Where a user has security measures in force which would require property identification and clearance before entry into their

premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(c) Refusal to allow duly authorized representatives entry shall be considered a violation of this article and may be considered grounds for discontinuing of sewer or water services, or both.

Sec. 86-262. - Refusing entry for inspection; issuance of search warrant.

Whenever the building official or director deems it necessary to enter upon any property at a reasonable hour for the purposes of inspection, observation, measurement, sampling and testing of enforcement in accordance with the provisions of this article, and is refused such entry, the official who is refused such entry may make an affidavit in writing, under oath to the district court stating the facts of the case so far as it may be known to the complainant. The court may issue an administrative search warrant or inspection or other order allowing the director, building official or his representatives to enter upon such property to the extent and time necessary to enforce and carry out the provisions of this article.

Sec. 86-263. - Sampling and analytical fee.

Industrial users may be charged a sampling and analytical fee in cases where the city must utilize the analytical capabilities of a private laboratory in order to determine compliance with pretreatment standards. This fee shall be equal to the actual costs incurred by the city plus an additional administrative fee to compensate the city for the staffing time, billing and collection expenses.

Sec. 86-264. - Self-monitoring.

The city may require industrial users to conduct self-monitoring. The city shall determine the frequency of self-monitoring necessary to assess and assure compliance by the industrial user with applicable pretreatment standards and requirements. The city may require the industrial user to provide a split of self-monitoring samples. The city shall require appropriate reporting from industrial users required to conduct self-monitoring.

Sec. 86-265. - Sampling and analysis procedures and methods.

All sampling and analyses conducted shall be performed in accordance with the procedures and methods detailed in the most current version of: 40 CFR part 136 the manner required by the MDEQ.

~~(1) "Standard Methods for the Examination of Water and Wastewater," American Public Health Association.~~

~~(2) "Manual of Methods for Chemical Analysis of Water and Wastes," United States Environmental Protection Agency.~~

~~(3) Any other method as may be approved by the city.~~

Sec. 86-266. - Laboratory utilized by industry conducting self-monitoring to be approved by city; quality control documentation required.

(a) Each laboratory utilized by industries conducting self-monitoring as required by the city shall be approved by the city and required to operate a formal quality control program as outlined in the most current version of: required by the MDEQ.

~~(1) "Handbook for Analytical Quality Control in Water and Wastewater Laboratories," United States Environmental Protection Agency.~~

~~(2) "Standard Methods for the Examination of Water and Wastewater," American Public Health Association.~~

(b) Laboratories conducting analyses for industrial users must submit a copy of the formal quality control documentation prior to approval by the city. Approval of laboratories shall be subject to periodic review. The city shall have the right to issue blind standards to be analyzed by other laboratories being utilized for self-monitoring. In the case of resolving disputes between analytical data generated by the city and another laboratory, any data without documented supporting quality control data will be rejected.

Sec. 86-267. - User notification to POTW of spills, etc., or change in volume or character of discharge; requirements.

All industrial users shall notify the POTW immediately of any accidental spills, unusual discharges, or slugloads. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p) or 40.24(2) or this article. If self-monitoring performed by an industrial user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results to the city within 30 days after becoming aware of the violation. The industrial user is not required to resample if:

- (1) The city performs sampling at the industrial user at a frequency of at least once per month.
- (2) The city performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

Sec. 86-268. - Pretreatment compliance reporting.

(a) *Compliance date report.* Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the sewage works, any user subject to pretreatment standards and requirements shall submit to the director information requested in section 86-253. For industrial users subject to equivalent mass or concentration limits established by the city in accordance with the procedures in 40 CFR 403.6, this report shall contain a reasonable measure of the user's longterm production rate. For all other industrial 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 user's actual production during the appropriate sampling period. This report shall include the certification statement as required in section 86-253. This statement shall be signed by an authorized representative as outlined in section 86-131.

(b) *Periodic compliance reports.* Periodic compliance reports shall be submitted by users as follows:

(1) Any user discharging into the sewage works shall submit to the director semiannually, unless required more frequently in the pretreatment standards or by the director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in section 86-253. The reports required in this section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The city shall require that frequency of monitoring necessary to assess and ensure compliance by the industrial user with applicable pretreatment standards and requirements. If an industrial user subject to the reporting requirements in this section monitors any pollutant more frequently than required by the city, the results of this monitoring shall be included in the report. At the discretion of the director, the director may alter the months during which the above reports are to be submitted. This report shall include the certification statement as required in section 86-253. This report shall be signed by an authorized representative as outlined in section 86-131. In the case of significant noncategorical industrial users, where the POTW itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.

(2) The director may also impose mass limitations on users using dilution to meet applicable pretreatment standards or requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by subsection (b)(1) of this section shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

Secs. 86-269—86-290. - Reserved.

#### Subdivision II. - Prohibited Discharges and Pretreatment Standards

Sec. 86-291. - General discharge prohibitions.

No person shall contribute nor cause to be contributed, directly or indirectly, any of the following substances into the sewage works:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion hazard in the POTW (including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21) or be injurious in any other way to the sewage works or to the operation of the sewage works.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer to other interference with the operation of the wastewater treatment facilities.

(3) Any wastewater having a pH of less than 5.0, or greater than 10.5, or other than that range established by the wastewater discharge permit, or any wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works. In any event, a minimum pH of 5.0 is necessary in order to comply with 40 CFR 403.5.

(4) Any pollutant, including oxygen demanding pollutants released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.

(5) Any wastewater containing toxic pollutants in sufficient quantity, either alone or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the sewage works or exceed any limitation set forth in the EPA categorical pretreatment standard, or any other applicable federal, state or county standards.

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

(7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

(8) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(9) Any substance which may cause the sewage works' effluent, or any other product of the sewage works such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.

(10) Any substance which, alone or in conjunction with a discharge or other discharges, causes pass through as defined in section 86-131.

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

(12) Any wastewater having a temperature which will inhibit biological activity in the sewage works. Wastewater with a temperature at the introduction into the sewage works which exceeds 49 degrees Celsius (120 degrees Fahrenheit) or is lower than 0 degrees Celsius (32 degrees Fahrenheit) is prohibited.

(13) Any slugload.

(14) Any wastewater containing 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.

(15) Any wastewater which can cause any hazardous situation or creates a public nuisance.

(16) Any wastewater containing noncompatibles in excess of the limits contained in the wastewater discharge permit.

(17) Any trucked or hauled pollutants except, at discharge points designated by the POTW.

Sec. 86-292. - Discharge standards and limits.

(a) All ~~nonresidential-nondomestic~~ users who discharge compatible pollutants shall be subject to the requirements itemized below.

(1) *User-specific maximum limits.* Upon approval of the director and issuance of a wastewater discharge permit, and if the discharge complies with the requirements of subsection (3) herein, wastewater not in excess of user-specific maximum mass limits may be discharged. These limits will be established by the director by an appropriate allocation of the wastewater treatment plant's approved maximum allowable headworks loadings for the following parameters:

Parameter	MAHL (lb/day)
5-day BOD	85,000
Suspended Solids	51,600
Total Phosphorus	1,800
Ammonia Nitrogen	4,800

(2) *General maximum limits:* Upon approval of the director and issuance of a wastewater discharge permit, wastewater containing pollutants not in excess of the following maximum concentration limits may be discharged:

Parameter	Daily Maximum Concentration (mg/L)
Fats, Oils and Grease	830

(3) *Surcharge threshold standards.* Discharges of compatible pollutants shall also be subject to a surcharge in accordance with section 86-162 when exceeding any of the following baseline levels:

Parameter	Daily Average Concentration (mg/L)
5-day BOD	460
Suspended Solids	260
Phosphorus	12
Fats, Oil and Grease	91
Ammonia Nitrogen	32

(b) All ~~nonresidential-nondomestic~~ users who discharge incompatible pollutants shall be subject to the requirements itemized below.

(1) Primary toxic pollutants.

a. *General maximum limits.* Upon approval of the director and issuance of a wastewater discharge permit, wastewater not in excess of the following limits may be discharged:

Parameter	Daily Maximum Concentration (mg/L)
Arsenic, Total	0.061
Cadmium, Total	0.1
Chromium, Total	2.9
Copper, Total	2.1

Lead, Total	1.9	
Mercury, Total	<0.0002	
Molybdenum, Total	0.19	
Nickel, Total	1.2	
Selenium, Total	0.04	
Silver, Total	0.15	
Zinc, Total	4.0	
Cyanides, Total	0.2	

(2) *Secondary toxic pollutants.*

a. *General maximum limits.* Upon approval of the director and issuance of a wastewater discharge permit, wastewater containing pollutants not in excess of the following limits may be discharged:

Parameter	Daily Average Concentration (mg/L)
2-Butanone (Methyl Ethyl Ketone)	760
Butyl Benzyl Phthalate	6.4
4-Chloro-3-Methyl Phenol (p-Chloro-m-Cresol)	1.0
1,4-Dichlorobenzene	0.48
bis 2-Ethylhexyl Phthalate	0.19
4-Methylphenol (p-Cresol)	4.7
Naphthalene	1.9
Phenol *	42
Toluene	3.5

Notes:

\*Based on discharge of any or all of the following phenolic compounds: 2-Chlorophenol; 4-Chlorophenol; 2,4-Dichlorophenol; 2,4-Dimethylphenol; 2,4-Dinitrophenol; 2-Methylphenol; 4-Methylphenol; 2-Nitrophenol; 4-Nitrophenol; and Phenol. Discharge of other phenolic compounds is prohibited, except as specifically authorized by the director.

a. Should pollutants other than specified above be received or anticipated, corresponding discharge limits may be established by the City via an appropriate mass allocation of the wastewater treatment plant's approved maximum allowable headworks loadings. The City reserves the right to enter into local initiatives with industrial users setting out special terms under which they may discharge to the POTW. In no case will any special agreement waive compliance with a pretreatment standard or requirement.

Sec. 86-293. - National categorical pretreatment standards.

Upon the promulgation of any national categorical pretreatment standards, alternative discharge limits or other federal or state limitations, for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this article for uses in that subcategory, shall immediately supersede the limitations imposed under this article and shall be considered part of this article. Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any

applicable categorical pretreatment standard. Existing sources which become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of new source as defined in section 86-131. New sources shall install and have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards. The director shall notify all affected users of the applicable reporting requirements.

Sec. 86-294. - Equivalent mass and concentration limits.

When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the city 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 industrial users. The city shall calculate equivalent mass-per-day limitations and equivalent concentration limitations in accordance with 40 CFR 403.6(c)(2)—(4) and 40 CFR 403.6(c)(6)—(7). Equivalent limitations calculated in accordance with these sections shall be deemed pretreatment standards for the purposes of section 307(d) of the Act and this article. Industrial users ~~will be required to~~ shall comply with the equivalent limitations in lieu of the promulgated categorical standards for which the equivalent limitations were derived. Any industrial user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the city within ~~two~~ 2 business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the city of such anticipated change will be required to meet the mass or concentration limits in its wastewater discharge permit that were based on the original estimate of the long-term average production rate.

Sec. 86-295. - Net/gross calculation.

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with 40 CFR 403.15.

Sec. 86-296. - Discharge modifications.

Within ~~six~~ 6 months of the promulgation or revision of any applicable pretreatment standard, all affected users must submit to the city the information required by section 86-253(a)(8) and (a)(9).

Sec. 86-297. - Application of state requirements or limitations.

State requirements or limitations on discharges shall apply whenever they are more stringent than national categorical pretreatment standards or limitations provided in this article. State and ~~national~~ federal requirements ~~are not subject to any appeal procedures~~ may not be appealed.

Sec. 86-298. - Compliance with pretreatment standards.

Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all pretreatment standards within the time limitations specified by the federal pretreatment regulations, state regulations and as required by the city. Any facilities required to pretreat wastewater shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to and approved by the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable by the city prior to the user's initiation of the changes.

Sec. 86-299. - User to initiate construction of facilities necessary to comply with discharge limitations.

~~Where~~ If pretreatment facilities are necessary to comply with wastewater discharge permit limitations, industrial users shall initiate construction of such facilities within ~~six~~ 6 months and complete construction within 18 months from the date of notice of noncompliance by city.

Sec. 86-300. - Increase of process water to dilute excessive discharge.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, alternative discharge limits or in any other pollutant-specific limitation adopted by the city or state.

Sec. 86-301. - Procedures for prevention of accidental and slugload discharges; notification if discharge occurs.

~~When required by the city, a user~~ shall provide protection from slugload discharges or accidental discharges of prohibited materials or other substances regulated by this article. If deemed reasonably necessary by the director or as otherwise required by state or federal laws or regulations, the city may require the user to implement procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response. Facilities to prevent slugload discharges or accidental discharges of prohibited material shall be provided and maintained at the user's cost and expense. Detailed information and plans showing facilities and operating procedures to provide this protection, including descriptions of discharge practices and stored chemicals, shall be submitted to the city for review and approval by the city before construction. All users shall complete construction of required facilities within the time period specified by the director. New users shall not be permitted to introduce pollutants into the system until approved accidental discharge facilities have been constructed. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the facility as necessary to meet the requirements of this article or from otherwise meeting requirements of this article. In the case of a slugload discharge or an accidental discharge, ~~it is the responsibility of the user to~~ shall immediately notify ~~immediately~~ the director of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions. Accidental discharge shall also include any discharge where such discharge has the possibility of entering into any waters of the state.

(1) *Written notice.* Within five working days following a slugload or accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to correct the situation and to prevent similar future occurrences. Such notification shall not relieve the user of any expense, penalty, loss, damage or other liability which may be incurred as a result of damage to the sewage works treatment process, nor any other damage to person or property, nor shall such notification relieve the user of any fines, civil or other liability which may be imposed by this article or other applicable law.

(2) *Notice to employees.* A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the persons to notify in the event of an accidental discharge. Employers shall advise all employees who may cause or suffer such a dangerous discharge to occur of the emergency notification procedure.

Sec. 86-302. - Upset to constitute affirmative defense.

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (b) of this section are met.

(b) An industrial user ~~who wishes~~wishing to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the causes of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(3) The industrial user has submitted the following information to the POTW and control authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the indirect discharge and cause of noncompliance;

- b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
- c. Steps being taken or planned to be taken to reduce, eliminate and prevent recurrence of the noncompliance.

(c) In any enforcement proceeding the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) In the usual exercise of prosecutorial discretion, the city's enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final city action subject to judicial review. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

#### Sec. 86-303. - Bypass.

For the purpose of this section, bypass shall mean the intentional diversion of wastestreams from any portion of the industrial user's treatment facility. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to subsections (1) and (2) of this section.

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the city, if possible, at least ten days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the city within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The city may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(2) Bypass is prohibited, and the city may take enforcement action against an industrial user for a bypass, unless:

- a. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. Severe property damage shall mean substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

- b. 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 judgement to prevent a bypass which occurred during periods of equipment downtime or preventative maintenance;

- c. The industrial user submitted notices as required under subsection (1) of this section.

(3) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subsection (2) of this section.

Secs. 86-304—86-320. - Reserved.

#### DIVISION 5. - LIQUID WASTE

Sec. 86-321. - Definitions.

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

- (a) *Liquid waste* means any liquid, gaseous or waterborne waste or sludge materials resulting from or incidental to any process of industry, manufacturing, mining or agricultural operations or any mixture of these waste materials with water or domestic sewage and domestic sewage.
- (b) *Liquid waste disposal system* means any facility primarily designed or operated for the purpose of processing or storing liquid waste.
- (c) *Structure* means the area in which the liquid industrial waste or liquid waste is stored on the premises for treatment or processing and shall include holding tanks.

Sec. 86-322. - Storage, removal, transfer, unloading, offering for sale, trade or exchange restricted to areas zoned for such dealings.

No person shall engage in the storage, removal, transfer, unloading, offering for sale, trade or exchange, or in any manner dealing in liquid wastes in the city except at such locations as are provided for in the zoning provisions of this Code.

Sec. 86-323. - Accumulations and deposit.

No person shall deposit, cause to be deposited or permit to accumulate any liquid waste or liquid industrial waste upon any public or private premises within the city in such a manner so as to emit noxious or offensive odors or dust or to become unsanitary or injurious to public health.

Sec. 86-324. - Storage and treatment.

The following provisions shall govern the operation for storage and treatment of all liquid waste on any property, excluding industries generating such liquid wastes which do not store or treat such liquid wastes:

- (1) Whenever liquid wastes are placed into any area for the purpose of removing liquids or portions of liquids from such waste, such liquid waste shall be placed in structures according to provisions as stated in this section.
- (2) None of the liquid waste shall be allowed to spill outside of the structures, and, if it is spilled outside, it shall be removed immediately.
- (3) No liquid waste shall be allowed to discharge on or into the groundwaters or surface waters.
- (4) Any liquid waste which has spilled onto the apron around the structure shall be washed into the structure or removed from the apron immediately after the spillage.
- (5) The entire area in which the structures are located shall be enclosed by a chainlink fence and a chainlink gate which shall be locked so as to prevent entrance by any unauthorized person when the area is unattended.
- (6) No liquid waste shall be allowed to dry to the extent that the waste would generate dust.
- (7) All liquid waste placed into any open structure shall be a minimum of six inches below the top of the structure at all times.
- (8) Reasonable means shall be used to prevent any spillage from any vehicles while they are carrying any liquid waste on any street to and from the location of the liquid waste site. If there is any spillage, the spillage shall be removed immediately.
- (9) Any person operating a facility handling liquid wastes shall have provisions for accumulating data so as to measure any dust being generated from the property because of the liquid waste. Such equipment shall be capable of monitoring the air on a 24-hour basis and shall be approved by the city, which approval shall be based upon the ability of the equipment to perform as required. Upon request, such information shall be furnished to the city.

(10) Every person operating a liquid waste disposal system shall be required to obtain a license and pay the fee as set by resolution of the city council from time to time and on file in city hall.

(11) All liquid wastes placed into the city sewer system shall meet all requirements of this article pertaining thereto.

(12) There shall be no storage of any liquid waste except for the purpose of treatment. All liquid wastes shall be treated within a reasonable time after being brought to the site.

Sec. 86-325. - Transporting vehicle standards.

All vehicles used for transporting liquid waste shall be completely sealed and shall be in good repair and free from any leaks so as to prevent spillage or discharge any place. All such vehicles shall be clean and odorfree prior to any movement on any city streets.

Sec. 86-326. - State approval required for deposit or storage on city lands.

When required, no person shall engage in the pickup or disposal of liquid waste material to deposit, discharge, store or stockpile such waste material on any lands in the city unless such land has been approved as a site for the disposal of such liquid waste by the state department of natural resources.

Sec. 86-327. - Use of storm drains, inlets, streets or lands.

No person shall deposit or discharge any liquid waste material into any public or private storm drains, inlets, streets or lands.

Sec. 86-328. - Storage or treatment facilities require pollution prevention plan.

Any person desiring to operate a new facility for the storing or treating of liquid waste shall submit a pollution prevention plan to the city for approval at the time application is made for a building permit for the construction of any structures to be used primarily for the treatment, storage, transfer or handling of industrial wastes. The following shall be included:

(1) Chemical composition of the liquid wastes to be processed or treated, including estimated volumes or quantities and identification of all toxic elements.

(2) Chemical composition of the expected resultant effluent, subsequent to treatment, to be discharged to the city sewer, including estimated volumes per day and quantities of heavy metals.

(3) Complete technological description of the treatment process, including complete plans and specifications of all equipment and structures to be used in the process or at the site.

(4) Complete description of method of handling wastes, including transporting, loading and unloading, as well as a description of equipment and vehicles used for handling wastes.

(5) Location of approved disposal sites for any liquid wastes resulting from the company's processing that cannot be discharged into a city sewer.

(6) Proof of licenses and permits that may be required from other governmental agencies for the hauling and disposal of liquid wastes.

(7) List of the names and addresses of industries from which liquid wastes will be collected and transported to the facility for treatment, including estimated volumes of liquid waste from each industry and a description of such wastes.

(8) Methods and equipment that will be used to monitor effectively and measure on a regular basis the quality of the air, groundwater and surface waters, soils and discharge to the city sewer system. Sampling and testing procedures shall be included in the plan as well as the frequency of such sampling and testing.

Sec. 86-329. - Inspection of liquid waste businesses.

The city by its authorized representatives shall have the right at all reasonable times to make inspections of any business subject to the provisions of this division governing liquid wastes.

Secs. 86-330—86-350. - Reserved.