

AN ORDINANCE AMENDING THE MARION CITY CODE BY AMENDING THE MARION WASTEWATER REGULATIONS AND SEWER USE ORDINANCE

WHEREAS, changes in the law governing and method of operation of the City Wastewater Utility have occurred since the date Wastewater Regulations and the Marion Sewer Use Ordinance were last adopted by the Common Council of the City of Marion; and

WHEREAS, the Marion Utility Service Board has recommended to the Common Council of the City of Marion an amendment to the Marion City Code to comprehensively incorporate all amendments to the existing Code which have been made necessary by such changes; and

WHEREAS, the Board and the Council believe that said proposed amendment is in the best interests of the Utility and its users, and should be adopted.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COMMON COUNCIL OF THE CIVIL CITY OF MARION, STATE OF INDIANA:

Section 36-9-2-17. Wastewater Regulations. Is amended to read as follows:

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Marion and enables the Board to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of wastewater and sludge from the Publicly Owned Treatment Works;

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

F. To enable the Board to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and requires User reporting.

1.2 Administration

The City Utility Service Board shall, in accordance with the State law, make and enforce whatever bylaws, rules and regulations it deems necessary for the safe, economical and efficient management of the wastewater utility, for the construction and use of building sewers and connections to the sewerage system including storm water and surface drainage, for the regulation, collection and refunding of the rates and charges for wastewater service and for the extension or replacement of sewer mains.

Except as otherwise provided herein, the Board shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Board may be delegated by the Board to a duly authorized utility representative.

Additional Rules and Regulations have been developed by the Board regarding the operation of waste disposal systems. These Rules and Regulations are in addition to this ordinance and are incorporated by reference under this code section. Two (2) copies of these rules and regulations shall be filed in the Office of the City Clerk and are available for inspection in accordance with Indiana Code 36-1.5. Another copy shall be filed for the convenience of the public in the general office of the Utility.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
C – Temperature in Centigrade
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency

F – Temperature in Fahrenheit
gpd – gallons per day
IAC – Indiana Administrative Code
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
SIU – Significant Industrial User
TSS – Total Suspended Solids
U.S.C. – United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

- A. Act or “the Act.” The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- B. Approval Authority. EPA Region V
- C. Authorized or Duly Authorized Representative of the User.
 - (1) If the User is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) If the User is an individual or any other legal entity: the individual or a legally authorized representative, agent, or assignee.

(5) The individuals described in paragraphs 1 through 4, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Board.

D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with certain established categorical Pretreatment Standards and effluent limits.

F. Board. The City Utility Service Board per Marion City Code Section 36-9-2-15 or its duly authorized representative.

G. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

H. Categorical Industrial User or CIU. A User subject to a categorical Pretreatment Standard or categorical Standard.

I. City. Marion, Indiana.

J. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

K. Combined Sewer - A sewer which carries both storm, surface and ground water runoff and sewage.

L. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

M. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

N. Discharge. The introduction of pollutants into the POTW from any source.

O. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

P. Existing Source. Any source of discharge that is not a "New Source."

Q. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

R. Inflow. The water discharged to a sewer system from such sources as roof downspouts, cellar, yard and area drains, foundation drains, cooling water discharges, drainage of land, manhole covers, catch basins, storm sewers, surface runoff and street drainage.

S. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the user flow rate and the duration of the sampling event.

T. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Board's NPDES permit or of the prevention of sewage sludge use or disposal.

U. Local Limit. Specific discharge limits developed and enforced by the Board to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs are considered local limits.

V. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

W. Monthly Average. The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

X. Monthly Average Limit. The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

Y. New Source. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, and as further defined in 40 CFR 403.3 (m).

Z. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

AA. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Board’s NPDES permit, including an increase in the magnitude or duration of a violation.

BB. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

CC. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

DD. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

EE. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

FF. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

GG. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

HH. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.

II. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292). This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or other wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

JJ. Sanitary Sewer - A sewer which carries sewage and to which storm, surface, ground waters and unpolluted industrial waters are not intentionally admitted.

KK. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

LL. Significant Industrial User (SIU).

Except as provided in paragraphs (3) and (4) of this Section, a SIU is:

(1) A User subject to categorical Pretreatment Standards; or

(2) A User that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the Board on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) The Board may determine that a User subject to categorical Pretreatment Standards is a NSCIU rather than a SIU on a finding that the User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- (a) The User, prior to Board's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- (b) The User annually submits the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
- (c) The User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Board may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU.

MM. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance or in any other way violate the POTW's regulations, Local Limits or Permit conditions. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through.

NN. Storm Sewer . A sewer which carries storm surface and ground water drainage but excludes sewage.

OO. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

PP. Total Suspended Solids or Suspended Solids or TSS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

QQ. User. A source of discharge.

RR. Wastewater. Liquid and water-carried wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

SS. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of wastewater.

SECTION 2—GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 5.0 or more than 12.5, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW or be detrimental to POTW operation, including, but not limited to, fats, oil, grease, sand, mud, rags, plastic food packaging, paper towels, and disposable wipes;

(4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

(5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

(6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

(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) Trucked or hauled pollutants, except at discharge points designated by the Board in accordance with Section 3.4 of this ordinance;

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, to prevent entry into the sewers for maintenance or repair, or cause air pollution;

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Board's NPDES permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

(12) Sludges, screenings, or other residues from the pretreatment of wastes;

(13) Medical Wastes, except as specifically authorized by the Board in a wastewater discharge permit;

(14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;

(15) Detergents, surface-active agents, or other substances which might cause excessive foaming in the POTW, thereby violating the Board's NPDES permit;

(16) Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent (10 %) of the Lower Explosive Limit of the meter.

(17) Wastewater containing a total of more than 100 mg/1 of oil and grease of any source, unless the POTW determines that a well-operated and maintained trap or interceptor results in meeting the objectives of this ordinance.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

C. Requirements

(1) No person shall discharge any substance directly into a manhole or other opening in a city sewer other than through an approved building sewer, unless authorized by the Board.

(2) A user proposing to discharge industrial holding tank waste into a sanitary sewer must secure a permit from the Board. This permit shall state the specific location of discharge, the time of day the discharge is to occur, the

volume of the discharge and the wastewater constituents and characteristics. If authorization is granted for discharge of that waste into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Board.

(3) Inflow and unpolluted water, including but not limited to surface runoff; water from roof downspouts or foundation drains; and cooling water, process water or blow-down from cooling towers or evaporative coolers; shall not be discharged through direct or indirect connection to a sanitary sewer unless authorization is granted by the Board. If the authorization is granted for the discharge of that water into a sanitary sewer, the user shall pay the applicable user charges and fees and shall meet all other conditions required by the Board.

(4) In any new building, inflow/clear water connection to a combined sewer shall be made separate and distinct from sanitary waste connection to facilitate disconnection of the former if a separate storm sewer subsequently becomes available.

(5) The construction of combined sewers in the City of Marion sewerage system is prohibited.

2.2 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471. Effluent limitations promulgated by the Federal Act shall apply in any instance where they are more stringent than those in this ordinance. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 and any future promulgated regulations are hereby incorporated.

A. Where a categorical Pretreatment Standard is expressed only in terms of the concentration of a pollutant in wastewater, the Board may impose equivalent mass limits in accordance with Section 2.2 D and 40 CFR 403.6(c).

B. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Board shall impose an alternate limit in accordance with 40 CFR 403.6(e).

C. A CIU may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with 40 CFR 403.15.

D. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, a CIU may request that the Board convert the limits to equivalent mass limits. The determination to convert concentration limits to mass

limits is within the discretion of the Board. The Board may establish equivalent mass limits only if the CIU meets all the conditions set forth in 40 CFR 403.6 (c) (5).

E. Once included in its permit, the CIU must comply with the equivalent limitations developed in this Section (2.2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

F. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.

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

2.3 State Pretreatment Standards

A User shall comply with State Pretreatment Standards applicable to the User. If the State Pretreatment Standards are less stringent than the National Pretreatment Standards or Local Limits applicable to the User, the User shall comply with the more stringent standards. The State Pretreatment Standards, as amended from time to time, are hereby incorporated by reference into this Ordinance.

2.4 Local Limits

A. The Board is authorized to establish Local Limits, by ordinance, order, or in wastewater discharge permits, pursuant to 40 CFR 403.5(c).

B. The following pollutant limits are established by ordinance to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Daily Maximum Limit.

0.10	mg/l arsenic
0.05	mg/l cadmium
2.50	mg/l chromium
2.00	mg/l copper
1.00	mg/l cyanide
0.50	mg/l lead

0.10	mg/l mercury
0.15	mg/l molybdenum
2.00	mg/l nickel
0.05	mg/l selenium
0.20	mg/l silver
5.00	mg/l zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Board may impose mass limitations in addition to the concentration-based limitations above.

C. The Board may develop Best Management Practices (BMPs) for any SIU or other User, as needed, to implement this Ordinance. BMPs may be implemented through a wastewater discharge permit, order, or other notice to the user. BMPs are Pretreatment Standards and enforceable under this Ordinance.

2.5 Right of Revision

The Board reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

2.6 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Board may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

2.7 Discretionary Action

Where circumstances so warrant the Board may agree to arrangements with users which modify the terms of this ordinance if that arrangement complies with the NPDES permit of the Board and all other Federal and State laws and regulations governing the operation of the wastewater treatment plant.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

In the event that a user is exceeding the limitations as set forth in Section 2, the Board shall direct the user causing the discharge of any such materials to cease and desist from those activities or operations which cause a violation of established discharge standards or to provide wastewater treatment as necessary to comply with this ordinance and to achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2 of this ordinance within the time limitations specified by EPA, the State, or the Board, whichever is more stringent.

Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Board for review, and shall be acceptable to the Board before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Board under the provisions of this ordinance.

Any facility classified as an industrial treatment plant per 327 IAC 5-22 shall meet the operator certification requirements in accordance with 327 IAC 5-22, as amended.

3.2 Additional Pretreatment Measures

A. Whenever deemed necessary, the Board may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from other facility wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.

B. The Board may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Grease, oil, and sand interceptors shall be provided for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; unless a waiver is granted by the Board (normally not applicable to residential dwellings). All interception units shall be of a type and capacity approved by the Board and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense. Such

interceptors shall be maintained such that the user does not violate the Pretreatment Standards in this Ordinance.

D. Waste from garbage grinders shall not be discharged into a sanitary sewer except:

- (1) Wastes generated in preparation of food normally consumed on the premises, or
- (2) Where the user has obtained authorization for that specific use from the Board, and agreed to undertake whatever self-monitoring is required to enable the Board to equitably determine the user charges based on the waste constituents and characteristics.

These grinders shall shred the waste so that all particles shall be carried freely under normal flow conditions prevailing in the sanitary sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials or garden refuse.

E. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans

Each User shall provide protection from accidental discharge of prohibited materials or other regulated wastes described in Section 2 of this ordinance. Those facilities shall be provided and maintained at the User's expense.

The Board shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Board may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Board may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Board of any accidental or Slug Discharge, as required by Section 6.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, 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.

3.4 Hauled Wastewater

- A. Hauled wastewater may be introduced into the POTW only at locations designated by the Board, and at such times as are established by the Board. Such wastewater shall not violate Section 2 of this ordinance or any other requirements established by the Board.
- B. The Board may require wastewater haulers to obtain wastewater discharge permits. The Board may also require generators of hauled wastewater to obtain wastewater discharge permits. The Board also may limit the volume discharged or prohibit the disposal of hauled wastewater. The discharge of hauled wastewater is subject to all other requirements of this ordinance.
- C. The Board may collect samples of each hauled load to ensure compliance with applicable Standards. The Board may require the wastewater hauler to provide a waste analysis of any load prior to discharge. No load may be discharged without prior consent of the Board.
- D. Wastewater haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the wastewater hauler, permit number, names and addresses of sources of wastewater, and volume and type of waste.
- E. Wastewater haulers of sewage disposal system wastewater shall meet the requirements of 327 IAC 7, as amended, if more stringent than requirements of this ordinance.

3.5 Regulation of Waste Received from Other Jurisdictions

- A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Board shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A above, the Board shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the Board may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Board's ordinance or Local Limits;
- (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Board; and which of these activities will be conducted jointly by the contributing municipality and the Board;
- (4) A requirement for the contributing municipality to provide the Board with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the Board access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Board; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

SECTION 4—WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Analysis

When requested by the Board, a User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Board is authorized to prepare a form for this purpose and may periodically require Users to update this information.

4.2 Wastewater Discharge Permit Requirement

Based upon a review of the information provided in Section 4.1, the Board shall determine whether or not a wastewater discharge permit must be issued or revised and what type of wastewater discharge permit or control document is appropriate for the User.

- A. No SIU shall discharge wastewater into the POTW without first obtaining a SIU wastewater discharge permit from the Board.
- B. The Board may require other Users to obtain non-SIU or other wastewater discharge permits as necessary or issue other control documents to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit or other control document shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permit Application Contents

- A. All SIUs must submit a permit application. Other Users may be required to submit a permit application. The Board may require Users to submit all or some of the following information as part of a permit application:
 - (1) Identifying Information.
 - a. The name and address of the facility, including the name of the operator and owner.
 - b. Contact information, description of activities, facilities, and plant production processes on the premises;
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations.
 - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

- b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2 B (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

- a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Board, of regulated pollutants in the discharge from each regulated process.
- c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 7.3 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Board or the applicable Standards to determine compliance with the Standard.
- e. Sampling must be performed in accordance with procedures set out in Section 7.4 of this ordinance.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 6.4 B [40 CFR 403.12(e)(2)].

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

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

4.4 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 6.14 A.

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Board prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 1.4 LL (3) must annually submit the signed certification statement in Section 6.14 B.

4.5 Wastewater Discharge Permit Decisions

The Board will evaluate the data furnished by the User and may require additional information. The Board may deny any application for a wastewater discharge permit.

SECTION 5—WASTEWATER DISCHARGE PERMIT ISSUANCE

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Board. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Board to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. SIU wastewater discharge permits must contain the following. Other wastewater discharge permits may contain the following:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Board in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 6.4 B.

(6) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(7) Requirements to control Slug Discharge, if determined by the Board to be necessary.

(8) Any grant of the monitoring waiver by the Board (Section 6.4 B) must be included as a condition in the CIU's permit.

B. SIU and other wastewater discharge permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by the Board to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Permit Issuance Process

Any person, including the User, may petition the Board to reconsider the terms of a wastewater discharge permit within fifteen (15) days of notice of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- (4) If the Board fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a

wastewater discharge permit, not to issue a SIU wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Grant Circuit or Superior Court, Grant County, Indiana within thirty (30) days.

5.4 Permit Modification

A. The Board may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the POTW, Utility personnel, the receiving waters, or the POTW's beneficial sludge use;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

5.5 Wastewater Discharge Permit Transfer

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Board and the Board approves the wastewater discharge permit transfer. The notice to the Board must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

The Board may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Board of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Board of changed conditions pursuant to Section 6.6 of this ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Board timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;

- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this ordinance.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a User are void upon the issuance of a new wastewater discharge permit to that User.

5.7 Wastewater Discharge Permit Reissuance

A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.3 of this ordinance, a minimum of ninety (90) days prior to the expiration of the User's existing wastewater discharge permit.

SECTION 6—REPORTING REQUIREMENTS

6.1 CIU and NSCIU Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing CIUs currently discharging to or scheduled to discharge to the POTW shall submit to the Board a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become CIUs subsequent to the promulgation of an applicable categorical Standard, shall submit to the Board a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. CIUs described above shall submit the information set forth below.

- (1) All information required in Section 4.3A (1) (a), Section 4.3A (2), Section 4.3A (3) (a), and Section 4.3A (6).

(2) Measurement of pollutants.

- a. The CIU shall provide the information required in Section 4.3 A (7) (a) through (d).
- b. The CIU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- 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 with the regulated wastewater prior to pretreatment the CIU should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Board;
- d. Sampling and analysis shall be performed in accordance with Section 7.3 and 7.4;
- e. The Board 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;
- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the CIU's Authorized Representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this ordinance and signed by an Authorized Representative.

6.2 CIU Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(4) of this ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the CIU to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The CIU shall submit a progress report to the Board no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the CIU to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Board.

6.3 CIU Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any CIU subject to such Pretreatment Standards and Requirements shall submit to the Board a report containing the information described in Section 4.3A(6) and (7) and 6.1(B)(2) of this ordinance. For CIUs subject to equivalent mass limits established in accordance with the procedures in Section 2.2, this report shall contain a reasonable measure of the CIU's long-term production rate. For all other CIUs 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 CIU's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance. All sampling will be done in conformance with Section 7.

6.4 SIU Periodic Compliance Reports

A. All SIUs must, at a frequency determined by the Board submit no less than twice per year (June and December, or on dates specified) reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the SIU must submit documentation required by the Board or the Pretreatment Standard necessary to determine the compliance status of the SIU.

B. The Board may authorize a CIU to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the CIU has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the CIU. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the SIU wastewater discharge permit, but in no case longer than 5 years. The CIU must submit a new request for the waiver before the waiver can be granted for each subsequent SIU wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the CIU must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

(4) The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 A (40 CFR 403.6(a)(2)(ii)).

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Board must be included as a condition in the CIU's permit. The reasons supporting the waiver and any information submitted by the CIU in its request for the waiver must be

maintained by the Board for 3 years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the CIU's permit by the Board, the CIU must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its wastestream due to activities of the CIU.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the CIU's operations, the CIU must immediately: Comply with the monitoring requirements of Section 6.4 A, or other more frequent monitoring requirements imposed by the Board, and notify the Board.

(9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

C. All SIU periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this ordinance.

D. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

E. If a SIU subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Board, using the procedures prescribed in Section 7.4 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Non-CIU Compliance Schedule Reports

Any non-CIU which is not in compliance with this ordinance shall develop a compliance schedule by which time the user shall meet the discharge prohibitions or requirements in Section 2 of this ordinance. The schedule should contain increments of progress, which correspond to specific dates for their completion. All users subject to these conditions shall submit a progress report to the Board no later than fourteen (14) days following each date in the compliance schedule. This report shall state if it complies with the increment of progress to be met on that date, the reason for delay if the date was not met, and the steps being taken to return to compliance. In no event shall more than six (6) months elapse between progress reports.

6.6 Reports of Changed Conditions

Each User must notify the Board of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.

- A. The Board may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- B. The Board may issue a wastewater discharge permit in response to changed conditions or anticipated changed conditions.

6.7 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, any User shall immediately telephone and notify the Board of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- B. Within five (5) days following such discharge, the User shall, unless waived by the Board, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. SIUs are also required to notify the Board immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.8 Reports from Non-SIUs

All Users not required to obtain a SIU wastewater discharge permit shall provide appropriate reports to the Board as required.

6.9 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Board within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Board within thirty (30) days after becoming aware of the violation. Resampling by the User is not required if the Board performs sampling at the User's facility at least once a month, or if the Board performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Board receives the results of this sampling, or if the Board has performed the sampling and analysis in lieu of the User. If the Board performed the sampling and analysis in lieu of the User, the Board will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis.

6.10 Notification of the Discharge of Hazardous Waste

Any User who commences the discharge of hazardous waste 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 Part 261. The User shall notify the POTW within 24 hours of becoming aware of the discharge.

6.11 Date of Receipt of Reports

Mailed, written reports will be deemed to have been submitted on the date postmarked. For written reports which are faxed, scanned and emailed, or hand-delivered, the date of receipt of the report shall govern.

6.12 Electronic Reporting

Upon approval, Users sending electronic (digital) documents to the Board to satisfy the requirements of this Section must meet the requirements or future requirements of EPA and Indiana regulations.

6.13 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 2.4 C. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Board, or where the User has been specifically notified of a longer retention period by the Board.

6.14 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.4; SIUs submitting baseline monitoring reports under Section 6.1 B (5); CIUs submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3; SIUs submitting periodic compliance reports required by Section 6.4 A–D, CIUs submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4B(4), and non-SIUs submitting reports required by Section 6.8. The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

<p>I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.</p>
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B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 1.4 II(3) and 4.4 C must annually submit the following certification statement signed in accordance with the signatory requirements in 1.4 C. This certification must accompany an alternative report required by the Board:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 II (3);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

C. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 6.4 B must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 6.4.A.

SECTION 7—SAMPLING AND COMPLIANCE MONITORING

7.1 Representative Sample

All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

7.2 Control Manhole

All Users who discharge pollutants other than sewage to the POTW and who make a new connection or modify an existing connection to the POTW shall install a Control Manhole unless the Board determines that a Control Manhole is not required. In addition, the Board shall have the authority to require any User, at the User's expense, to install a Control Manhole if the Board determines that such a manhole is necessary to protect the POTW.

7.3 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Board or other parties approved by EPA.

7.4 Sample Collection

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Board. Where time-proportional composite sampling or grab sampling is authorized by the Board, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be

composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Board, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Board may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the SIU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

7.5 Right of Entry: Inspection and Sampling

The Board shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Board ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Board shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Board shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct independent sampling and/or metering of the User's operations.

C. The Board may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy. When the monitoring facility is constructed in the public right-of-way or easement, in an unobstructed location, the location of the monitoring

facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis. Whether constructed on public or private property, the monitoring facilities should be provided in accordance with the Board's requirements and all applicable local construction standards and specifications.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Board and shall not be replaced. The costs of clearing such access shall be born by the User.

E. Unreasonable delays in allowing the Board access to the User's premises shall be a violation of this ordinance.

7.6 Search Warrants

If the Board has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Board designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Board may seek issuance of a search warrant from the Grant Circuit or Superior Court, Grant County, Indiana.

SECTION 8—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Board's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Board, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Board shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in SNC with applicable Pretreatment Standards and Requirements. The term SNC shall be applicable to all SIUs (or any other User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Board 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;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Board's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a SIU wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which the Board determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may serve upon that User a written Notice of Violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Board. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Board to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Board may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

The Board may order a User which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days

prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User. If the User does not come into compliance within the time provided, sewer service may be discontinued.

10.5 Cease and Desist Orders

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Board may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.6 Emergency Suspensions

The Board may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Board may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the

operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the Board may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Board may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Board that the period of endangerment has passed, unless the termination proceedings in Section 10.7 of this ordinance are initiated against the User.

B. A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Board prior to the date of any show cause or termination hearing under Sections 10.3 or 10.7 of this ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

10.7 Termination of Discharge

In addition to the provisions in Section 5.6 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 2 of this ordinance.
- F. Failure to comply with administrative enforcement remedies in this ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action

should not be taken. Exercise of this option by the Board shall not be a bar to, or a prerequisite for, taking any other action against the User.

10.8 Appeals

Any user affected by any decision, action or determination, including cease and desist orders, made by the Board, interpreting or implementing the provisions of this section or in any authorization issued herein, may file with the Board a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.

If the ruling made by the Board is unsatisfactory to the person requesting reconsideration, he or she may, within ten (10) days after notification of Board action, file a written appeal to the Board. The written appeal shall be heard by the Board within thirty (30) days from the date of filing. The Board shall make a final ruling on the appeal within ten (10) days of the close of the meeting. The Board's decision, action, or determination shall remain in effect during that period of reconsideration.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may petition the Grant Circuit or Superior Court, Grant County, Indiana through the Board's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

A. A User who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Board for a maximum civil penalty of \$2,500 for any first offense, and \$7,500.00 for any second offense

per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. The Board may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Board.

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.3 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Board may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Board's enforcement response plan. However, the Board may take other action against any User when the circumstances warrant. Further, the Board is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Payment of Outstanding Fees and Penalties

The Board may decline to issue or reissue a wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous wastewater discharge permit, or order issued hereunder.

12.2 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other

Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

12.3 Public Nuisances

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Board. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the Board for any costs incurred in removing, abating, or remedying said nuisance.

12.4 Contractor Listing

Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the Board. Existing contracts for the sale of goods or services to the Board held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Board.

12.5 Cost Recovery

When a discharge of wastes causes an obstruction, damage, or any other impairment to the POTW, the Board may assess a charge against the user for the work required to clean or repair the facility and add that charge to the user's charges and fees. The User may be responsible for paying the following (but not limited to) costs:

1. Cost of mileage and labor incurred in detecting and correcting the violation;
2. Laboratory analysis costs associated with detecting and correcting the violation;
3. Additional treatment costs caused by the violation or associated with detecting and correcting the violation;
4. Costs of any additional equipment acquired or expended by the Board for detecting or correcting the violation;
5. Repair and/or replacement of any part of the sewerage system damaged by the violation;
6. Any liability, damages, fines or penalties incurred by the Board as a result of the violation;
7. Any and all expenses of outside professionals to include, but not limited to, engineers, scientists, and/or legal counsel; and
8. Other costs associated with the detection and correction of the violations.

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 CIU Upset

A. For the purposes of this Section, 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 CIU. 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.

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.

C. A CIU who wishes 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 CIU can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The CIU has submitted the following information to the Board within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) 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 and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the CIU seeking to establish the occurrence of an upset shall have the burden of proof.

E. CIUs shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

F. CIUs shall control production of 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.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1(B)(3) through (7) and (9) through (17) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Board was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(2) Severe property damage means 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. A 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 assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Board, at least ten (10) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to the Board of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, 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 Board may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

(1) Bypass is prohibited, and the Board may take an enforcement action against a User for a bypass, unless

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (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 back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (c) The User submitted notices as required under paragraph (C) of this section.

(2) The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

SECTION 14—WASTEWATER TREATMENT RATES

14.1 For the use of and the service rendered by said wastewater utility, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with or uses the Board's sanitary sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids either directly or indirectly into the sanitary sewage system of the City of Marion, Indiana, by or through any part of the sewage system of the City of Marion, which rates and charges shall be payable as hereinafter provided and shall be in an amount determinable as follows:

14.2 The sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to those rates, as the same is measured by the water meter there in use, except as herein otherwise provided. The following rates and charges are hereby established for the use of and the service rendered by said wastewater utility of the City of Marion, Indiana, based on the amount of water used during each billing period on or in the property or premises subject to those rates and charges as the same is measured by the water meter there in use, except as otherwise herein provided.

14.3 The water usage schedule on which the amount of said rates and charges shall be determined shall be as follows, which schedule reflects the amount of water used each billing period:

A. Monthly Volume Charges - per 100 cubic feet

	<u>Rates</u>
Domestic Users:	
Treatment	\$.561
Conveyance	.126
Capital	<u>.573</u>
Total	<u>\$1.260</u>

Manufacturing:

Treatment	\$.561
Conveyance	.126
Capital	<u>.443</u>
Total	<u>\$1.130</u>

B. Billing Charge - per bill (not applicable to minimum bills)

\$2.092

C. Minimum User Charges

<u>Meter Size</u>	<u>Rates Per Month</u>
5/8 inch	\$ 5.67
3/4 inch	8.19
1 inch	14.74
12 inch	32.95
2 inch	58.34
3 inch	131.42
4 inch	233.60
6 inch	525.80
8 inch	934.67

D Unmetered User Flat Charges - per month

Domestic Users:

Single-family dwelling unit	\$15.12
Multi-family	To be estimated by Utility
Manufacturing User	To be estimated by Utility

Estimates of monthly flat charges for multi-family residences shall be based on the number of family units accommodated by the system multiplied by the single-family residence monthly charge. Estimates of monthly flat charges for commercial and industrial establishments shall be either estimated based on number of employees, manufacturing processes used and other pertinent sewer use indicators or based on outfall measurements where available.

E Regional Contract Charges

In the event the City consummates a contract to service as a regional treatment plant for any other municipality or private sewage utility, either contiguous to the City or in its environs, said contract shall provide for appropriate, lawful unit charges. The charge with respect to the current agreement with the Town of Sweetser, Indiana, is as follows:

**Regional Contract Charges -
per 100 cubic feet**

Treatment	\$.494
Conveyance	.049
Capital	<u>.179</u>
Total	\$ <u>.722</u>

In addition to the above volume charges, each contract customer shall pay the following charges:

Monthly Billing Charge	\$ <u>2.00</u>
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Quarterly Surveillance Charge \$157.50

14.4 Excessive Strength Surcharge

A. The monthly rate of surcharge for each constituent shall be as follows:

- | | |
|----------------------------|-------------------------|
| 1) For BOD/COD | - 16.8 cents per pound |
| 2) For suspended solids | - 16.8 cents per pound |
| 3) For phosphorus | - 159.3 cents per pound |

B. Each user discharging waste into the wastewater collection system shall be subject to an excessive strength surcharge in addition to other sewage service charges imposed by this ordinance, based on the following minimum strength characteristics to the extent that such wastes are in concentrations greater than as follows:

- 1) Biochemical oxygen demand of 200 milligrams per liter.
- 2) Chemical oxygen demand of 400 milligrams per liter.
- 3) Suspended solids content of 250 milligrams per liter.
- 4) Phosphorous concentration of 10 milligrams per liter.

C. Sampling and Testing for Surcharges or User Charges. The discharged sewage shall be sampled during each sewage billing period for a minimum of a one (1) day period, i.e., twenty-four (24) hours, by means of a composite sample. An extended sampling period of up to one (1) week, i.e., seven (7) continuous days, or reduction may be requested to enable the gathering of a sample representative of a business' sewage. The extension or reduction of the sampling period beyond the initial one (1) day sampling period may be requested by either the sewer user involved or the Board. If an extended sampling period is requested, the parameter values used to calculate the surcharge shall be the arithmetical average of the individual values. If a user has multiple discharges of sewage, each discharge shall be sampled according to quality. The volume of each discharge shall be determined by actual measurement or by means of process usage. If significant process changes are made to affect quality of any discharge, resampling may be requested by either the user involved or the Board.

The sample shall be measured for the following parameters: Biochemical oxygen demand (BOD) or Chemical Oxygen Demand (COD), suspended solids (SS) and phosphorus. These tests shall be conducted in accordance with the Code of Federal Regulations, Title 40, Part 136, Guideline Establishing Test Procedures for the Analysis of Pollutants.

D. Computation of Surcharge. The excess of pounds of COD/BOD (whichever is greater than the minimum stated above), suspended solids and/or phosphorus shall be computed by multiplying the sewage billing volume measured in units of one hundred (100) cubic feet for the current sewage billing period by the factor 0.006238 and then multiplying the difference between the concentration measured in milligrams per liter

of the BOD/COD, suspended solids and phosphorous, respectively, in the customers sewage and the allowed concentrations set out in 14.4 B, resulting in pounds of each constituent. The surcharge of each constituent shall then be determined by multiplying the excess pounds of each constituent by the appropriate surcharge set forth in 14.4 A.

E. **Revision of Rates of Surcharge.** As deemed necessary, the Utility Director shall submit to the Board a detailed report showing cost for removing BOD/COD, suspended solids and phosphorus from wastewater treatment plant influent during the previous calendar year with the unit charges currently in effect so that the Board may determine if the current rates are adequate or should be changed.

14.5 Waste Evaluation Charges All users discharging wastes into the system requiring continuing surveillance, sampling and waste evaluation shall be subject to a quarterly fixed charge to cover the costs of such services in the amount of \$157.50 per discharge point. The analytical fees shall be as established by the Board.

14.6 Deposit. The Utility may require from each applicant for wastewater service a cash deposit of \$60.00 as a guarantee against the non-payment of bills for service. However, if the applicant is an owner of real property whose credit is approved by the Utility, the deposit may be waived. If the customer's bill remains unpaid for a period of five (5) days after the date of the final bill or the date of discontinuance of service, the amount of that bill shall be deducted from the deposit and the balance, if any, will be remitted to the depositor.

14.7 Other Provisions In the event sewage received pursuant to any contract entered into under this section exceeds any of the limitations imposed by the applicable sections of the Marion Municipal Code, the City shall have the right to impose all charges, limitations and penalties applicable to any non-contract user served by the City. Each contract entered into by the City pursuant to the foregoing rate classification shall provide that contract customer shall agree to enact and maintain a User Charge system acceptable to the City and in conformance with the City's obligations under Sec. 204B(1), Public Law 92-500 as amended and supplemented and guidelines and regulations promulgated thereunder by the U.S. Environmental Protection Agency and 40 CFR 35.905-8, 35.928-1 and 35.928.2, and 35.935.13.

14.9 Wastewater Volume Determination

A. **Metered Water Supply.** User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the Board, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources shall be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Board.

B. **Metered Wastewater Volume and Metered Diversions.** For users where, in the opinion of the board, a significant portion of the water received from any material sources does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees shall be applied against the

volume of water discharged from such premises into the sanitary sewer. Written notification and proof of the diversion of water shall be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Board and at the user's expense. These meters may measure either the amount of sewage discharge or the amount of water diverted. These meters shall be tested for accuracy at the expense of the user when deemed necessary by the Board.

C Estimated Wastewater Volume.

(1) **Users without source meters.** For users where, in the opinion of the Board, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the Board. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.

(2) **Users with source meters.** For users who, in the opinion of the Board, divert a significant portion of their flow from a sanitary sewer, the user charges may be based upon:

(a) direct measurement of the diverted flow or

(b) an estimate of the volume prepared by the user provided the user obtains Wastewater Discharge Authorization and pays the applicable user charges and fees. The estimate shall include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

SECTION 15—MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

The Board may adopt reasonable fees for reimbursement of costs of setting up and operating the Board's Pretreatment Program.

15.2 Severability

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

SECTION 16—EFFECTIVE DATE

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

Any User who was discharging wastewater into the POTW prior to the effective date of this ordinance and is in violation of this ordinance, but who wishes to continue discharging, shall, within thirty (30) days after said effective date, submit a compliance schedule to the Board in accordance with Section 6.1 or 6.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one-hundred eighty (180) days of the effective date of this ordinance except in accordance with an approved compliance schedule.