

**CITY OF MARTINSVILLE
SEWER USE ORDINANCE**

ORDINANCE 2005-1554

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ORDINANCE NO.

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 Martinsville and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations 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 industrial 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 City 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; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

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 other City personnel.

1.3 Abbreviations

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

| | | |
|--------|---|--|
| ASTM | - | American Society For Testing Materials. |
| BOD | - | Biochemical Oxygen Demand |
| CFR | - | Code of Federal Regulations |
| COD | - | Chemical Oxygen Demand |
| EPA | - | U.S. Environmental Protection Agency |
| gpd | - | gallons per day |
| ISBH | - | Indiana State Board of Health. |
| IWEA | - | Indiana Wastewater Environmental Association |
| L | - | Liter |
| mg/l | - | milligrams per liter |
| NPDES | - | National Pollutant Discharge Elimination System |
| O&M | - | Operation and Maintenance. |
| POTW | - | Publicly Owned Treatment Works |
| RCRA | - | Resource Conservation and Recovery Act |
| SIC | - | Standard Industrial Classification |
| SWDA | - | Solid Waste Disposal Act. 42 U.S.C. 6901, et. seq. |
| TSS | - | Total Suspended Solids |
| USB | - | Utility Service Board. |
| 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. § 1251 *et seq.*
- B. Approval Authority - The Approval Authority shall mean the Regional Administrator of the US EPA
- C. 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 operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if 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) The individuals described in paragraphs 1 through 3, above, may designate another 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 City.
- D. Board - The Board of Public Works and Safety of the City of Martinsville.
- E. 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° centigrade, usually expressed as a concentration (e.g., mg/l).

- F. Building (or House) Drain - The lowest horizontal piping of building drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to a point approximately five (5) feet outside the foundation wall of the building.
- G. Building (or House) Lateral Sewer - The extension from the building drain to the sewerage system or other place of disposal.
- H. 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. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- I. City - The City of Martinsville or the City Council of Martinsville.
- J. Compatible Pollutants - Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the City's National Pollutant Discharge Elimination Systems (NPDES) permit, if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a "substantial degree". The term "substantial degree" is not subject to precise definition, but generally contemplates removals in the order of 80 percent or greater. Minor incidental removals in the order of 10 to 30 percent are not considered substantial.

Examples of the additional pollutants which may be compatible include:

- 1) Chemical oxygen demand
 - 2) total organic carbon
 - 3) phosphorous and phosphorous compounds
 - 4) nitrogen and nitrogen compounds
 - 5) Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).
- K. Composite Sample - A composite sample should contain a minimum of eight discrete samples taken at equal time intervals or volume of flow proportional to the flow rate over the composting period. More than the minimum number of discrete samples will be required where the wastewater loading is highly variable.
 - L. Daily Discharge - Discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar for purposes of sampling.

- M. Domestic Sewage - Wastewater from typical residential Users and having pollutant characteristics of not greater than 200 mg/l BOD and 200 mg/l suspended solids.
- N. Easement - An acquired legal right of the specific use of land owned by others.
- O. Effluent - Water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.
- P. Environmental Protection Agency or EPA - The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.
- Q. Existing Source - Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- R. Fecal Coliform - Any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.
- S. Floatable Oil - Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment in an approved pretreatment facility.
- T. Garbage - Solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- U. Grab Sample - A sample which 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.
- V. Grease and Oil - A group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of the determination in accordance with "Standard Methods".
- (1) Grease and Oil of Animal and Vegetable Origin - Substances of biodegradable nature such as are discharged by meatpacking, vegetable oil and fat industries, food processors, canneries and restaurants.
 - (2) Grease and Oil of Mineral Origin - Substances that are less readily biodegradable than grease and oil of animal or vegetable origin, and are derived from a petroleum source. Such substances include machinery lubricating oils, gasoline station wastes, petroleum refinery wastes and storage depot wastes.

- W. Holding Tank Waste - Any waste from holding tanks, such as campers, trailers, septic tanks, vacuum pump trucks and the like.
- X. IDEM - The Indiana Department of Environmental Management.
- Y. Indirect Discharge or Discharge - The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.
- Z. Industrial Wastes - Any solid, liquid, or gaseous substance or form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by a person and shall further mean any waste from an industrial User.
- AA. Infiltration - The water entering the a sewer system including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls.
- BB. Inflow - The water discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof drains, cellars, yard and area drains, foundations drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and combined sewers, catch basins, storm sewers, surface run-off, street wash waters or drainage.
- CC. Influent - The water, together with any wastes that may be present, flowing into a drain, sewer, receptacle or outlet.
- DD. Inspector - A person authorized by the City.
- EE. Instantaneous Maximum Allowable Discharge 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 industrial flow rate and the duration of the sampling event.
- FF. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, does one (1) of the following:
- (1) Inhibits or disrupts the POTW, its treatment processes or operations, its sludge processes, or its selected sludge use or disposal methods.
 - (2) Causes a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.
 - (3) Prevents the use of POTW's sewage sludge or its sludge disposal method selected in compliance with the following statutory provisions, regulations, or permits issued thereunder or more stringent state or local regulations:

- a. Section 405 of the Clean Water Act (33 U.S.C. 1345).
- b. The Solid Waste Disposal Act (SWDA) 42 U.S.C. 6901), including:
 - i. Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA); and
 - ii. The rules contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA (42 U.S.C. 6941).
- c. The Clean Air Act (42 U.S.C. 7401).
- d. The Toxic Substances Control Act (15 U.S.C. 2601)

GG. 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.

HH. Natural Outlet - Any outlet into a watercourse, pond, lake or other body of surface or ground water.

II. New Source

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a

new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

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

(a) Begun, or caused to begin, as part of a continuous onsite construction program

(i) any placement, assembly, or installation of facilities or equipment; or

(ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

KK. NPDES Permit - A permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to navigable waters of the United States.

LL. Nuisance - Anything which is injurious to health or offensive to the senses or an obstruction of the free use of property so as to interfere with the comfort or enjoyment of life or property.

MM. 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 City's NPDES permit, including an increase in the magnitude or duration of a violation.

- NN. 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.
- OO. pH - A measure of the acidity or alkalinity of a solution, expressed in standard units.
- PP. Pollution - An alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial uses or facilities which serve such beneficial uses. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- QQ. 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).
- RR. Premises - A parcel of real estate including any single improvement there on which is determined by the Board to be a single User for purposed of receiving, using and payment for service.
- SS. 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.
- TT. Pretreatment Requirements - Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- UU. Pretreatment Standards or Standards - Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.
- VV. Prohibited Discharge Standards or Prohibited Discharges - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- WW. Proper Operation and Maintenance - Procedures executed in a prudent, cost-effective and workmanlike manner which achieve the highest and/or required effluent quality of industrial discharge attainable in conformance with the best available technology and practices. Proper operation and maintenance requirements include avoidance of operational error, adherence to manual

instructions, preventive maintenance, avoidance of careless or improper operation, neat accurate sampling, analysis and records retention, storage of process chemicals, lubricants, solvents, etc., in a safe and organized manner, avoidance of accidental spillage, keeping operating logs and other activities which produce the desired effluent quality.

- XX. Publicly Owned Treatment Works or POTW - A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- YY. Receiving Stream - The watercourse, stream or body of water receiving the waters finally discharged from the wastewater treatment plant.
- ZZ. Septic Tank Waste - Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- AAA. Sewage - Human excrement and gray water (household showers, dishwashing operations, etc.).
- BBB. Sewer - A pipe or conduit laid for carrying wastewater or other liquids.
- (1) Combined Sewer - A sewer which carries both storm, surface, ground water runoff and wastewater.
 - (2) Public Sewer - A sewer in which all owners of abutting property have equal rights and which is controlled by public authority, including the following elements:
 - (3) Collection Sewer - A sewer whose primary purpose is to collect wastewaters from individual point source discharges.
 - (4) Interceptor sewer - a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.
 - (5) Force Main - A pipe in which wastewater is carried under pressure.
 - (6) Pumping station - A station positioned in the public sewerage system at which wastewater is pumped to higher level.
 - (7) Sanitary Sewer - A sewer which carries wastewater and to which storm, surface and ground waters and unpolluted industrial wastewater are not intentionally admitted.
 - (8) Storm Sewer - A sewer which carries storm, surface and ground water drainage but excludes wastewater.

CCC. Significant Industrial User

- (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 City 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) Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

DDD. Sludge - Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under Section 402, 405 of the Federal Act and in the applicable requirements under Sections 3001, 3004, and 4004 of the Solid Waste Disposal Act PL 94-580.

EEE. Slug Load or Slug - 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.

FFF. Standard Industrial Classification (SIC) Code - A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

GGG. Standard Methods - Shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

- HHH. Storm Water - Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- III. Superintendent - The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- JJJ. Suspended Solids - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- KKK. Surcharge - A charge for services in addition to the basic service charge.
- LLL. Total Solids - The sum of suspended and dissolved solids.
- MMM. Unpolluted Water - Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to sanitary sewers and wastewater treatment facilities provided.
- NNN. User or Industrial User - A source of indirect discharge.
- OOO. Wastewater - Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- PPP. Wastewater Treatment Plant or Treatment Plant - That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
- QQQ. Waters of the State - Any water, surface or underground, within the boundaries of Indiana, except confined waters in sewers, tanks and the like.

NOTE - The use of the word "shall" indicates a mandatory condition. The use of the word "may" indicated a discretionary condition.

1.5 DISCHARGE TO PUBLIC SEWERS

- A. The owner of any house, building or property used for human occupancy, employment, recreation or other purpose, situated within the City and abutting on any street, alley or right-of-way in which there is now located a public sanitary or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance, within ninety (90) days after the date of official notice to do so, provided that said public sewer tap is available at the property line or is within one-hundred (100) feet of the property line.

- B. No person shall discharge or cause to be discharged to any sanitary sewer, whether directly or indirectly, storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water. The Board may require the removal of unpolluted water from any wastewater collection or treatment facility.
- C. No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the City, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this ordinance and the NPDES Permit.
- D. It shall be unlawful to discharge to any natural outlet within the City of Martinsville, or in any area under the jurisdiction of the Board, sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this Ordinance and the NPDES Permit.
- E. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- F. It is unlawful for the owner, tenant, occupant, or any person in a building or place where cooking is done, to discharge any grease into the city sewer system. Any commercial cooking facility shall install a grease trap interceptor of the size and type approved by the City and shall provide the city with proof of proper cleaning and disposal of said interceptor upon request. Grease-trap interceptors are not required for private living quarters or residential dwellings.

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°F (60°C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.5 or more than 10.0, 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 resulting in interference;
 - (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 greater than 150°F (65°C), or 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°F (40°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 Superintendent 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, or to prevent entry into the sewers for maintenance or repair;

- (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 City's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Superintendent;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 50 mg/l; and
- (18) 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°F (60°C), using the test methods specified in 40 CFR 261.21.

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.

2.2 Local Limits

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

| <u>Pollutant</u> | <u>mg/l</u> |
|-----------------------|-------------|
| Arsenic | 0.15 |
| Cadmium | 0.16 |
| Chromium (Hexavalent) | 1.00 |
| Chromium (Total) | 3.00 |
| Copper | 1.00 |
| Cyanide (Total) | 1.00 |
| Lead | 0.43 |
| Nickel | 1.00 |
| Oil and Grease | 50 |
| Silver | 0.20 |
| Zinc | 1.92 |
| Mercury | 0.0003 |

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, or in place of, the concentration-based limitations above. The Board may also impose limits on parameters not listed above to protect the POTW.

2.3 City's Right of Revision

The City reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

2.4 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 Superintendent 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.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.1 of this ordinance within the time limitations specified by EPA, the State, or the Superintendent, 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 Superintendent for review, and shall be acceptable to the Superintendent 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 City under the provisions of this ordinance.

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Superintendent 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 industrial 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 Superintendent 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 or a control manhole for monitoring purposes. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. The user shall maintain records of cleaning and maintenance of the interceptor on site for a minimum of three years. These records may be reviewed by the Superintendent during routine inspections.
- D. 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 Control Plans

At least once every two (2) years, the Superintendent may evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug 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 Superintendent 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. Septic tank waste may be introduced into the POTW only at locations designated by the Superintendent, and at such times as are established by the Superintendent. Such waste shall not violate Section 2 of this ordinance or any other requirements established by the City. The Superintendent may require septic tank waste haulers to obtain wastewater discharge permits.
- B. The Superintendent shall require haulers of industrial waste to obtain wastewater discharge permits. The Superintendent may require generators of hauled industrial waste to obtain wastewater discharge permits. The Superintendent also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Wastewater Analysis

When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within ten (10) days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Indiana Department of Environmental Management.
- B. The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit 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 Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ten (10) days after said date, apply to IDEM for a wastewater discharge permit.

4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must apply for such permit from IDEM prior to the beginning or recommencing of such discharge. The user must also have prior approval from the Superintendent before discharging to the POTW.

SECTION 5 – CONTRIBUTING JURISDICTIONS

5.1 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 which are at least as stringent as those set out in Section 2 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City'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 inspections, 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 6 - REPORTING REQUIREMENTS

6.1 Compliance Schedule Progress Reports

The following conditions shall apply to a 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. 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 this Section.

- 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 user 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 user shall submit a progress report to the Superintendent 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 user to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

6.2 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 user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in Section 6.1(B)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified by an authorized representative.

6.3 Periodic Compliance Reports

- A. All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and 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. All compliance reports must be signed and certified by an authorized representative.
- B. 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.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.

6.4 Reports of Changed Conditions

Each user must notify the Superintendent of any planned 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 Superintendent 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 to both the City and IDEM.

- B. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

6.5 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, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent 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 Superintendent, 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 may 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 whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

6.6 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require.

6.7 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Superintendent 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 Superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

6.8 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, 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, sampling and analyses must be performed in accordance with procedures approved by EPA.

6.9 Sample Collection

- A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

6.10 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

6.11 Record Keeping

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 and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. 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 City, or where the user has been specifically notified of a longer retention period by the Superintendent.

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The Superintendent or authorized representative 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 Superintendent 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 Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Superintendent 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 annually to ensure their accuracy.
- 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 Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.
- E. Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this ordinance.

7.2 Search Warrants

If the Superintendent 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 City 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, then the Superintendent may seek issuance of a search warrant from the Court of the appropriate jurisdiction.

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 Superintendent'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 Superintendent, 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 by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Superintendent may publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- 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 daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other discharge violation that the Superintendent believes 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 pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent'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 wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) 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 the Superintendent 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 Superintendent 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 Superintendent may serve upon that user a written Notice of Violation. Within thirty (30) days of the receipt of this 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 Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Superintendent 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 voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will 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 thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. 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. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. 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.

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 Administrative Fines

- A. 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 fine such user in an amount not to exceed \$2,500. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- C. Users desiring to dispute such fines must file a written request for the Board to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the Board may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Board may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.7 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 10.8 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 10.8 of this ordinance.

Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

10.8 Termination of Discharge

In addition to the provisions in 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.

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.

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 Court of the appropriate jurisdiction through the City'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 City for a maximum civil penalty of \$2,500 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 City.
- 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 Criminal Prosecution

- A. A user who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, or imprisonment, or both.
- B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be subject to a

penalty up to \$2,500, or be subject to imprisonment, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$2,500 per violation, per day, or imprisonment, or both.
- D. In the event of a second conviction, a user shall be punished by a fine of not more than \$2,500 per violation, per day, or imprisonment, or both.

11.4 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 City'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 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.1 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 user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 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 user 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 user 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 user has submitted the following information to the Superintendent 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 user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- F. Users 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.

12.2 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 (18) 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 City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

12.3 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. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Superintendent 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 Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- D. (1) Bypass is prohibited, and the Superintendent 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 Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION 13 - MISCELLANEOUS PROVISIONS

13.1 Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals; and
- E. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

13.2 Severability

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

SECTION 14 - EFFECTIVE DATE

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

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INDUSTRIAL PRETREATMENT

CITY OF MARTINSVILLE
ENFORCEMENT RESPONSE GUIDE (ERG)

City of Martinsville

INDUSTRIAL PRETREATMENT ENFORCEMENT RESPONSE GUIDE (ERG)

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INTRODUCTION

This document represents the City of Martinsville's Enforcement Procedures for the Industrial Pretreatment Program in Martinsville, Indiana. The City of Martinsville institutes enforcement actions for industrial violations under Title 10, Article 3 of Ordinances of the City of Martinsville.

It is to be understood that if an Industrial User's NONCOMPLIANCE persists after notification by the City of Martinsville, the Indiana Department of Environmental Management (IDEM) may proceed to enforce directly against the industrial user and/or the City. The IDEM may also take its own enforcement action when the City of Martinsville, **has not taken timely action or has failed to impose adequate sanctions against the industry in violation.**

Action taken by the City may be preferable to actions taken by IDEM. The US EPA retains authority to take its own enforcement action where the state or local municipality is not willing to take **timely or appropriate enforcement.**

This Guide has been tailored as recommended by EPA, to include a range of enforcement responses available to the City of Martinsville. It addresses a broad range of pretreatment violations. It is not intended to cover all types of violations. It has been developed for guidance and is not intended to limit the enforcement discretion of any of the administering agencies.

If industrial user personnel appear to be attempting, in good faith, to comply with pretreatment requirements, the City's enforcement actions would be on a more cooperative level than if the industrial user personnel do not appear to be attempting to comply in good faith. If a facility appears to be acting in good faith to comply, the City may choose an enforcement response that is not as coercive as one would choose against a facility not acting in good faith.

It should be noted however, that when "Good Faith," must be measured against the violation, Congress clearly expressed in the Clean Water Act that, **extraordinary efforts**, are required by the Industrial Community to comply with the pretreatment requirements.

INDUSTRIAL USER INVENTORY

The General Pretreatment Regulations, 40 CFR 403.8 (f) (2), require all POTWs to identify potential industrial users subject to the requirements of the pretreatment program and to identify the volume and character of pollutants discharged by these industrial users.

There is no single reliable source for identification of new industrial facilities. Therefore, discovery of new industries occurs as a result of varied activities and from diverse areas. The following list includes a number of resources used by the City for identifying new facilities:

- Telephone listings (Yellow Pages);
- Previous survey results;
- Industrial Park tenant lists;
- Sewer connection permits;
- Referrals from other agencies (Morgan County Board of Health, etc.);
- Site visits;
- Reports from other regulated industries;
- Citizen reports;
- Contact from potential industries;
- Observations by sampling/surveillance/inspection/field personnel;
- Newspaper articles/trade journals/business magazines; and
- Chamber of Commerce.

COMPLIANCE MONITORING PROCEDURES

Compliance monitoring activities conducted by the City of Martinsville are necessary to identify and document violations that can be presented as admissible and irrefutable evidence in administrative actions and legal proceedings. Industrial compliance with applicable regulations is determined and evaluated through:

- 1) Self-monitoring data from industrial users;
- 2) Inspections conducted by the City of Martinsville;
- 3) Surveillance sampling and analysis conducted by the City of Martinsville; and
- 4) Evaluation by the City of Martinsville of application information.

Self-monitoring data is required by all permitted industrial users. The forms used are prescribed by the IDEM to ensure all necessary information is submitted. An authorized representative of the industry must also sign each report. These data are prima facie evidence if violations are identified.

Inspections by the City of Martinsville are conducted to verify compliance and to identify any potential problems or violations. A standard inspection form is used to ensure all areas are evaluated. The form is signed and dated by the inspector.

Surveillance sampling conducted by the City of Martinsville and analysis by the City or contract laboratory are the cornerstone of compliance monitoring. Therefore, it requires strict adherence to standard procedures and proper QA/QC procedures. Trained sampling and inspection personnel collect industrial samples and complete a field chain-of-custody form, which accompanies each sample. This form follows the sample through the analytical process to

maintain its identity and to assign to it the proper results. Each person receiving custody of the sample is required to sign the chain-of-custody form.

Information submitted by industrial users on the Industrial Discharge Permit Application must also be evaluated for compliance with regulations. The City must also determine if the industrial user has failed to document information necessary to complete the application. Failure to disclose vital information is a violation of the permitting program. The application form contains a statement attesting to the accuracy and completeness of the information submitted which must be signed by an authorized representative of the industrial user.

DATA SCREENING

The majority of data to be screened and evaluated is generated through industrial self-monitoring and City surveillance sampling. The Superintendent shall review all data generated by these two activities.

IDENTIFICATION OF VIOLATIONS

The identification of a violation of pretreatment requirements, regardless of the severity, will initiate the enforcement process. Discovery of a violation may occur as a result of any number of activities. The list below represents the most common sources of identifying violations:

- 1) Review of City surveillance sampling results;
- 2) Review of industrial user self-monitoring results;
- 3) Spill/accidental discharge reports from industrial users;
- 4) 24-hour notification of violations by the industry to the City;
- 5) Site visits/inspections by City personnel;
- 6) Other information provided by industrial user employees;
- 7) Observations by field personnel;
- 8) Information provided by the public or private citizens;
- 9) Review of compliance schedule requirements;
- 10) Review of agreed judgment requirements; or
- 11) Information provided by other agencies (IDEM, County Board of Health, etc.).

Once violations are identified, it is the responsibility of the Superintendent to implement the appropriate enforcement response required in the plan. When determining an appropriate response, particularly one which includes the imposition of penalties and/or fines, the specific procedures outlined in the Enforcement Response Section must be followed. However, additional criteria may be used in determination of the response, including:

- Magnitude of the violation;
- Duration of the violation;
- Effect of the violation on the POTW's receiving stream;
- Effect of the violation on POTW personnel, processes, and equipment;
- Compliance history of the industrial user;
- Good faith of the industrial user; or
- Pollutants of particular importance to the POTW.

ENFORCEMENT RESPONSE DISCUSSION

Generally, all violations identified by the City are reviewed, evaluated, and addressed by the appropriate enforcement response. The responses fall within the guidelines of the Enforcement Response Guide.

The majority of enforcement actions begin with issuance of an initial Letter of Violation (LOV). The LOV describes the nature of the violation and informs the industrial user that any additional violations may result in escalated enforcement action.

Once the industrial user has been notified of a violation or has knowledge of a condition which is a violation, the industrial user may be allowed up to thirty (30) calendar days to correct the noncompliance before escalation of the enforcement process occurs. This thirty (30) day period applies only to an initial violation. Any violations occurring after this period will be evaluated according to the plan procedures. (NOTE: A repeat occurrence does not necessarily indicate the same parameter, condition, or procedural requirement was found in violation.) An industry receiving results of self-monitoring or City surveillance sampling which are in violation has thirty (30) days to correct whatever condition exists or existed which contributed to the violation. Thereafter, each violation is evaluated for enforcement action. In addition, if a violation occurred during the thirty (30) day correction period, the industry must demonstrate good faith was exercised to prevent or mitigate further violations during that period.

SCHEDULING INDUSTRIAL INSPECTIONS

Each facility permitted by IDEM must be inspected at least annually by the City of Martinsville. However, many facilities will receive numerous inspections/visits during a given year to track compliance schedule activities, verify changes in discharge or processes, maintain a regulatory presence, or scrutinize facilities with discharges most likely to impact the POTW.

Scheduling regular annual inspections is done on a random basis by reviewing the current industry list and noting a day and time in a monthly planning log for the facilities to be inspected. Depending on the industry, advance notice by letter or telephone may be given of the impending inspection. As an industry is inspected, the date is noted in the tracking system to ensure each facility is inspected at least once during each calendar year as dictated by program requirements.

Other inspections or site visits are conducted according to need. Facilities operating under a compliance schedule are given priority for follow-up visits to verify progress and to document that required activities are being accomplished. Inspections of these facilities may take place at regular intervals by noting inspection dates in a planning log well in advance. Inspections may also be scheduled at the request of an industrial user to verify compliance with certain requirements or to identify potential problems.

Some inspections will not be scheduled in advance, but are conducted as a result of a spill, accidental discharge, City surveillance sampling, or other extraordinary events. These are often referred to as demand inspections and are accomplished as the need arises.

City of Martinsville

Enforcement Procedures

Industrial Pretreatment

Industries found to be out of compliance with federal, state, or local requirements are subject to the conditions of the City of Martinsville's Enforcement Response Guide. The Superintendent conducts informal enforcement actions, verbal telephone notices, letters of violation, site visits, administrative orders, enforcement compliance schedules and administrative fines. Enforcement actions, which require legal action, are made by the Martinsville Board of Public Works and Safety upon the recommendations of the Superintendent of the City of Martinsville.

Violations and discrepancies that have been identified during the review process are to be evaluated as to the type of enforcement response necessary by the City of Martinsville. In order to ensure equitable treatment of violators and provide a stronger basis for selection of appropriate responses to violations, the Enforcement Response Guide (ERG) in Section IV should normally be followed, unless mitigating circumstances can be shown.

The Enforcement Response Guide indicates the type of noncompliance, the circumstances which might dictate the type of response, and the range of responses for that particular category of noncompliance. The Enforcement Response Guide has been developed with the intention of serving the following four main purposes:

1. It recommends enforcement responses that are appropriate in relation to the nature and severity of the violation and the overall degree of noncompliance; and
2. It provides a guide to encourage a uniform application of enforcement responses to comparable levels in types of violations; and
3. It can be used as a mechanism to review the appropriateness of the response; and
4. It allows the industrial community to realize the importance of the pretreatment program along with proper operation of equipment and meeting standards and limits, along with responses by the City of Martinsville if and when various violations occur.

The Enforcement Response Guide groups various types of violations into the following four categories:

- I. Violations of discharge limitations;
- II. Violations of compliance schedules;
- III. Violations of sampling, monitoring, and reporting; and
- IV. Violations detected through inspection or field investigations by the City.

Types of Enforcement Response

In order to provide a concise manual in a usable format, acronyms have been used for several of the types of response. Definition of the acronyms are as follows and are listed in increasing order of severity:

- I. **VTN** - Verbal Telephone Notice - Is meant to describe a response to a very minor type of violation, which is normally conveyed verbally to the contact person at the industry and no further follow up normally is usually expected. This is utilized when there is a very minor infraction, such as a report being received one or two days late.
- II. **SV** - Site Visit - A visit to the industrial site to discuss and observe the problem. This can be a substitution for VTN or LOV. The SV can also be made in conjunction with a Letter of Violation. The SV also can require a response within ten (10) days, indicating a reason for the noncompliance and what steps are being taken to eliminate any future violations of this nature. A field visit sheet needs to be filled out also.
- III. **LOV** - Letter of Violation - Is the most widely used and is a written notification to the Industrial User indicating the type of apparent violation and requesting a response within ten (10) days, indicating a reason for the noncompliance and what steps are being taken to eliminate any future violations of this nature.
- IV. **SCH** - Show Cause Hearing - Is a meeting to show cause why a 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 this 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. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.

- IV. **AO - Administrative Order** - An Administrative Order would be in such cases where the City believed the Industrial User was committed to providing necessary corrective measures to correct previous violations, and would utilize the Administrative Order to outline minor compliance schedules, along with other conditions that might be required, such as additional monitoring, more reporting, etc. The order would normally contain a short time-frame of above one (1) month to six (6) months.
- VI. **ECS - Enforcement Compliance Schedule** - This is a Formal Enforcement Compliance Schedule signed by both the City of Martinsville and the industry involved. This control mechanism is used when serious or long term violations of discharge limits occur that require the design and installation of new or additional pretreatment equipment. Usually the time-frame will be six (6) months to one (1) year. Violations of the ECS can result in the next step, consisting of administrative fines.

- VII. **AF - Administrative Fine** - An administrative fine would be in such cases where all lower types of enforcement responses have failed and or where deemed appropriate by the Superintendent, because of the nature and/or intent of the violation. The next response step is court action. The administrative fine step exists to try to prevent court activity and yet to correct the problem and or show the seriousness of the problem to the industry involved. The maximum fine is \$2,500.00 per violation with each day being considered a separate violation. The administrative fine may also be part of an (AO), Administrative Order, (ECS) Enforcement Compliance Schedule, or may be instituted as the next step above an (AO).
- VIII. **LIT - Litigation** - Litigation is utilized to define several courses of action, including civil suits for injunctive relief and/or civil penalties, criminal suits, termination of service, etc. These types of actions would all involve the courts, the District Attorney, and would follow the procedures necessary for due process.

Utilizing the Enforcement Response Guide, the Superintendent will initiate the appropriate response and see that the files have been updated to show the type of action being taken and the response date, if one is so indicated, and the type of action taken. The Superintendent will initiate any field sampling which he feels appropriate to substantiate previous data received, or to double check, the response of an Industrial User to the action which they have indicated that they have taken.

At the end of each three (3) month period, the Superintendent will be responsible for reviewing the industry files to determine any SNC's, and if so, the Superintendent

shall be responsible for seeing that the SNC's are tabulated on an annual basis and that the name of all SNC's are published in the local daily newspaper. SNC covers a "rolling" six month period.

Significant Noncompliance

Instances of Significant Noncompliance (SNC) are Industrial User Violations which meet one or more of the following criteria:

- I. Violations of wastewater discharge limits.
 - A. Chronic violations. Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six month period.
 - B. Technical Review Criteria (TRC). Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six month period.

There are two groups of TRCs:

- Group I** for conventional pollutants
(BOD, TSS, fats, oil and grease) **TRC = 1.4 X Limit**
- Group II** for all other pollutants **TRC = 1.2 X Limit**

- C. Any other violation or violations of an effluent limit (Average or daily maximum) that the Superintendent believes has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.
- D. Any discharge of a pollutant, which has caused imminent endangerment to human health/welfare or to the environment and resulted in the POTWs exercise of this emergency authority to halt or prevent such a discharge.

- II. Violation of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- III. Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards, i.e., baseline monitoring reports, 90-day compliance reports, and periodic reports within 30 days from due date.
- IV. Failure to accurately report noncompliance.
- V. Any other violation or group of violations, which the Superintendent considers to be significant.

TYPES OF ENFORCEMENT RESPONSES

1. VTN = Verbal Telephone Notice
2. SV = Site Visit
3. LOV = Letter of Violation
4. SCH = Show Cause Hearing
5. AO = Administrative Order
6. ECS = Enforcement Compliance Schedule
7. AF = Administrative Fine
8. LIT = Litigation

SNC = Signification Noncompliance

Chronic Violations

TRC = Technical Review Criteria

ENFORCEMENT RESPONSE GUIDE

DISCHARGE LIMITATIONS

Whenever an LOV is issued that requires a response and the Industrial User fails to respond, the next level of enforcement should be undertaken.

| <u>NONCOMPLIANCE</u> | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u> |
|--|---|--|
| Exceeding final limits (categorical, local, or prohibited) | Infrequent or isolated minor violation | VTN, SV or LOV |
| Exceeding Final Limits | Infrequent or isolated major violations exceed the limits by TRC of a single effluent limit | VTN, SV, LOV, AO, AF or LIT if environmental harm resulted including penalty |
| Exceeding Final Limits | Violations(s) which are SNC | AO, ECS, AF, or LIT including penalty |
| Exceeding Interim Limits (categorical or local) | Without known damages | LOV or AO |
| Exceeding Interim Limits | Results in known environmental or POTW damage - SNC | AO, ECS, AF, or LIT penalty |
| Reported Slug Load | Isolated without known damage | LOV, SCH or AO |
| Reported Slug Load | Isolated with known interference, pass through or damage - SNC | AO, AF or LIT including penalty |
| Reported Slug Load | Recurring - SNC | LIT including penalty |
| Discharge without a permit or approval | One time without known environmental or POTW damage | AO |
| Discharge without a permit or approval | One time which results in environmental damage or continuing violation - SNC | AO, AF or LIT and penalty. Request for criminal investigation |
| Discharge without a permit or approval | Continuing violation with known environmental or POTW damage - SNC | LIT and penalty. Request for criminal investigation and disconnect |

ENFORCEMENT RESPONSE GUIDE

COMPLIANCE SCHEDULES

(Construction phases or planning)

Whenever an LOV is issued that requires a response and the Industrial User fails to respond, the next level of enforcement should be undertaken.

| <u>NONCOMPLIANCE</u> | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u> |
|---|---|---|
| Reporting false information | Any instance - SNC | AF, LIT penalties. Sewer ban |
| Missed Interim Date | Will not cause late final date or other interim dates | LOV, SV |
| Missed Interim Date | Will result in other missed interim dates. Violation for good or valid cause | LOV, SV or AO |
| Missed Interim Date | Will result in other missed interim dates. No good or valid cause - SNC | LOV, AO, AF or LIT |
| Missed Final Date | Violation due to strike's, act of God, etc. | Contact permittee and require documentation of good or valid cause; show cause |
| Missed Final Date | 90 days or more outstanding. Failure or refusal to comply without good or valid cause | AO, AF or LIT including penalty |
| Failure to install monitoring equipment | Continued - SNC | AO, AF to begin monitoring (using outside contracts, if necessary) <u>and</u> install equipment within minimal time |

ENFORCEMENT RESPONSE GUIDE

SAMPLING, MONITORING AND REPORTING BY THE INDUSTRY

Whenever an LOV is issued that requires a response and the Industrial User fails to respond, the next level of enforcement should be undertaken.

| <u>NONCOMPLIANCE</u> | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u> |
|---|---|---|
| Failure to sample, monitor or report (routine reports), baseline monitoring report | Isolated or infrequent. | VTN, SV or LOV requiring a report within 10 days |
| Failure to sample, monitor, report or notify | IU does not respond to letters, does not follow through on verbal or written agreement, or frequent violation - SNC | AO, ECS, AF or LIT |
| Failure to notify of effluent limit violation or slug discharge | Isolated or infrequent. No known effects | VTN, SV or LOV. If no response within 10 days, issue an AO |
| Failure to notify of effluent limit violation or slug discharge | Frequent or continued violation - SNC | SCH, AO, AF, or LIT including penalties |
| Failure to notify of effluent limit violation or slug discharge | Known environmental or POTW damage results - SNC | AF, LIT and penalties |
| Minor sampling, monitoring or reporting deficiencies (computational or typographical errors). | Isolated or infrequent. | VTN, SV or LOV. Corrections to be made on next submittal. AO if continued |
| Major or gross sampling, monitoring or reporting deficiencies (missing information, late reports) | Isolated or infrequent | SV, LOV or AO. Corrections to be made on next submittal |
| Major or gross reporting deficiencies | Continued. Remains uncorrected 30 days or more - SNC | AO, AF or LIT |

ENFORCEMENT RESPONSE GUIDE

NONCOMPLIANCE DETECTED THROUGH INSPECTIONS OR FIELD INVESTIGATIONS BY THE CITY

Whenever an **LOV** is issued that requires a response and the Industrial User fails to respond, the next level of enforcement should be undertaken.

| <u>NONCOMPLIANCE</u> | <u>CIRCUMSTANCES</u> | <u>RANGE OF RESPONSE</u> |
|--|--|--|
| Minor violation of analytical procedures | Any instance | VTN, SV |
| Major violation of analytical procedures | No evidence of intent | LOV or AO |
| Major violation of analytical procedures | Evidence of negligence or intent - SNC | AO, AF or LIT and penalty (possible criminal action) |
| Minor violation of permit condition | No evidence of negligence or intent | VTN, SV or LOV. Immediate correction required |
| Minor violation of permit condition | Evidence of negligence or intent - SNC | AO, AF or LIT and penalty (possible criminal action) |
| Major violation of permit condition | Evidence of negligence or intent - SNC | AO, AF or LIT and penalty (possible disconnect from sewer) |

SNC - This denotes that the circumstances of a particular violation would generally be considered

TRC - Technical Review Criteria

TIME FRAMES FOR RESPONSES

- I. All violations will be identified and documented within five (5) working days of receiving compliance information.
- II. Initial enforcement responses (involving contact with the industrial user and requesting information on corrective or preventative action(s)) will occur within thirty (30) days of violation detection.
- III. Follow up actions for continuing or reoccurring violations will be taken within sixty (60) days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule.
- IV. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
- V. All violations meeting the criteria for significant noncompliance (SNC) will be addressed with an enforceable order within thirty (30) days of the identification of significant noncompliance.

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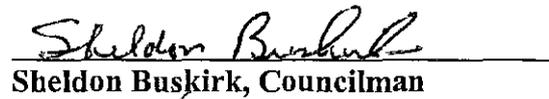
ORDINANCE #2005-1554

Mayor Shannon Buskirk



Dave Barger, Councilman

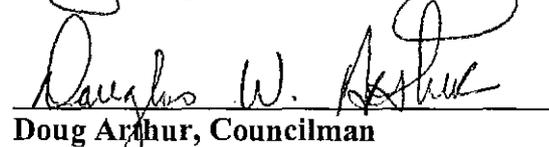
Scott Manley, Councilman



Sheldon Buskirk, Councilman



Gordon Burgin, Councilman



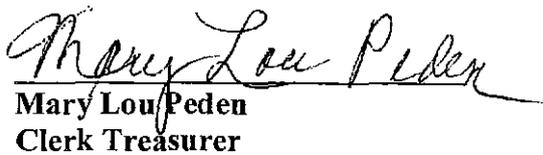
Doug Arthur, Councilman



Gary Lester, Councilman



Phil Deckard, II, Councilman



Mary Lou Peden
Clerk Treasurer

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