

**ORDINANCE NO. 2018 -**

**AN ORDINANCE ESTABLISHING STANDARDS FOR THE  
USE OF THE SEWAGE COLLECTION SYSTEM FOR THE NEW PARIS  
CONSERVANCY DISTRICT**

WHEREAS, under Indiana Code 14-33 the New Paris Conservancy District, Elkhart County, Indiana (the "District") has the power to, and has approved plans and specifications for, and has determined to provide for the collection, treatment, and disposal of sewage;

WHEREAS, the District owns and operates sewage collection systems within the Unincorporated area of Elkhart County, Indiana for the purpose of protecting public health and the environment;

WHEREAS, the District needs to establish certain rules, regulations and requirements relative to the use of the sewage systems; and

WHEREAS, the District is required to comply with the stipulations of Part III of the District's NPDES Permit dated 9-16-2015 (Permit No. IN0058025).

WHEREAS, under Indiana Code §14-33-5-21 *et seq.*, the District has the power to adopt an ordinance establishing rules, regulations and requirements relative to the use of the sewage systems.

NOW, THEREFORE, BE IT RESOLVED, ESTABLISHED, AND ORDAINED by the New Paris Conservancy District, Elkhart County, Indiana that:

1. SHORT TITLE AND PURPOSE:

- a) This Ordinance shall be known as the "Sewer Use Ordinance" and may be cited as such.
- b) It is the purpose of this Sewer Use Ordinance to establish a regulatory scheme to:
  - i) prevent the introduction of pollutants into the Sanitary Sewer which will interfere with the operation of the system or contaminate the resulting sludge;
  - ii) Prevent the introduction of pollutants into the Sanitary Sewer which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

- iii) Improve the opportunity to recycle and reclaim Wastewaters and sludge from the system;
- iv) Provide for equitable distribution of the cost of the Sanitary Sewer; and
- v) Protect the physical integrity of the publicly owned treatment works and to provide for the safety of the public and workers on and in the works.

2. DEFINITIONS: Unless otherwise defined in this Sewer Rate Ordinance, the meaning of terms and phrases shall be defined as follows:

- a) Best Management Practices (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 C.F.R. §§ 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, Sludge or Waste disposal, or drainage from raw materials storage.
- b) Ammonia (or NH<sub>3</sub>) means the same as Ammonia Nitrogen measured as Nitrogen. The laboratory determination shall be made in accordance with procedures set forth in “Standard Methods” as defined in this section.
- c) Board means the Board of Directors of the New Paris Conservancy District, or any duly authorized official or Board acting in its behalf.
- d) Building Drain means that part of the lowest horizontal piping of a drainage system which receives the discharge from waste drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet outside the interface of the building wall.
- e) Building Drain (Sanitary) means in plumbing, that part of the lowest horizontal piping within a building drain to the Sanitary Sewer, or
- f) Building Drain (Storm) means a building drain without connecting storm water or other clean water drainage but no wastewater.
- g) Building Lateral Sewer means the extension from the building drains to the public sewer main or other place of disposal.
- h) Building Sewer means the horizontal piping that extends from the end of the building drain to the Sanitary Sewer.
- i) Categorical Industrial User means an Industrial User subject to a Categorical

Pretreatment Standard or Categorical Standard.

- j) Categorical Pretreatment Standards means National Pretreatment Standards specifying quantities or concentrations of Pollutants or Pollutant properties which may be Discharge or introduced to the WTF by existing or new Industrial Users in specific industrial subcategories as established by the EPA in accordance with Sections 307 (b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- k) Carbonaceous Biochemical Oxygen Demand or cBOD<sub>5</sub> means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration.
- l) Chemical Oxygen Demand (COD) means a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant.
- m) Combined Sewer means a sewer receiving both surface runoff and sewage.
- n) Commercial User means a source of Wastewater discharging to a public sewer and the WTF from business establishments including, but not limited to, stores, markets, office buildings, restaurants, shopping centers, and which is not an Industrial User as defined in this Ordinance.
- o) Compatible Pollutants means those Pollutants that are normally removed by the WTF treatment system such as Carbonaceous Biochemical Oxygen Demand, suspended solids, total phosphorus, ammonia nitrogen, and pathogens.
- p) Composite Sample means a minimum of four samples collected over a time greater than 15 minutes that is representative of a Discharge which may be either time or flow proportional.
- q) “County” means Elkhart County, Indiana.

- r) Daily Maximum means the arithmetic average of all Effluent samples for a Pollutant collected during a calendar day.
- s) Daily Maximum Limit means the maximum allowable Discharge limit of a Pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily Discharge is the arithmetic average measurement of the Pollutant concentration derived from all measurements taken that day.
- t) Demand Monitoring means monitoring conducted by the Operator in addition to the two unscheduled monitoring events required each year.
- u) Direct Discharge means the introduction or addition of any Pollutant, or combination of Pollutants, into any Waters of the State of Indiana from a point source.
- v) Discharge means the pouring forth, emission or release of Pollutants or Wastewater from any source.
- w) "District" means the New Paris Conservancy District.
- x) Domestic Wastewater means Sanitary Wastewater discharged by Residential Users typically containing less than 250 mg/L of cBOD<sub>5</sub> and less than 250 mg/L of TSS. Domestic Wastewater does not contain a component of Industrial Waste or Storm Water.
- y) "Dwelling" means any house or place used or intended to be used by human occupants as a place of residence.
- z) Easement means an acquired legal right for the specific use of land owned by others, including but not limited to right of access.
- aa) Effluent means the water, together with any wastes that may be present, flowing out of a drain, Sewer, receptacle or outlet.

- bb) Effluent Limitation means any restriction established by the District or the Approval Authority on quantities, Discharge rates and concentrations of Pollutants that are discharged from point sources into the WTF or Waters of the State.
- cc) Equipment Replacement Costs means the cash expenditures or expense allowances set aside for the purpose of purchasing new equipment or to replace worn or obsolete equipment that is no longer operating at an accepted level of efficiency due to continued use or technological improvements.
- dd) Equivalent Dwelling Unit (EDU) means the average wastewater flow, either estimated or metered, of 175.5 gallons per day. All EDU calculations shall be rounded to the next higher gallon amount. All residential customers shall be assumed to be equivalent to one EDU. The EDU factors may be reviewed and adjusted by the District from time to time.
- ee) Escherichia Coli (E-coli) means any of the number of organisms common to the intestinal tract of humans and animals, whose presence is an indicator of pollution.
- ff) Existing Source means an Industrial User that is not a New Source as defined in 40 C.F.R. § 403.
- gg) Fats, Oils and Grease (FOG) means a group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other materials that are extracted by a solvent from an acidified sample that are not volatilized during the laboratory test procedures. Oils and Greases are more specifically defined by the standard method used for their determination.
- hh) Four Day Average Discharge means the calculated result of totaling the mass or average concentration of all daily Discharges sampled or measured during four consecutive sampling days, though not necessarily consecutive calendar days, divided by the number of daily Discharges sampled or measured.

- ii) "Garbage" means the animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods. It is composed largely of putrescible organic matter and its natural moisture.
- jj) Grab Sample means an individual sample collected over a period of time not exceeding 15 minutes.
- kk) "Health Office" means the health officer of the State of Indiana, County, or District.
- ll) IDEM means the Indiana Department of Environmental Management.
- mm) Incompatible Pollutants means any Pollutants which are not Compatible Pollutants.
- nn) Indirect Discharge means the introduction or addition of any Pollutant, or combination of Pollutants into a WTF from any nondomestic source.
- oo) Industrial Pretreatment Bypass or Bypass means an intentional diversion of waste streams from any portion of an Industrial User's treatment facility.
- pp) Industrial User means a source of Indirect Waste discharging to the WTF.
- qq) Industrial Waste means any solid, liquid or gaseous substance or heat energy discharged, permitted to flow into or enter a public sewer and the WTF from an industrial, manufacturing or commercial process or from the development, recovery or processing of any natural resource carried on by any person and shall further mean any Waste from an Industrial User, but not including Sanitary Wastewater or Storm Water.
- rr) Infiltration means the groundwater entering the WTF directly or via Private Sewers, Building Drains and Sewer Lateral connected therewith, or entering a Sewer, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls.
- ss) Inflow means water other than Wastewater entering the WTF from sources such as cellars, yard areas, foundation drains, roof drains, drains from springs and swampy areas, stream backflow, manhole areas, cross connections between Storm and Sanitary

Sewers, catch basins, cooling towers, geothermal system discharge, Storm Water, surface runoff and street waters or drainage.

tt) "Inspector" means a person duly authorized by the District to perform inspection and monitoring duties to determine compliance with this Sewer Use Ordinance and approve the installation of Building Sewers, and/or their connection to the Sanitary Sewer.

uu) "Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources, does one (1) of the following: Inhibits or disrupts the Sanitary Sewer, its treatment processes or operations, its sludge processes, or its selected sludge use or disposal methods; Causes a violation of any requirement of the District, including an increase in the magnitude or duration of a violation.

vv) "Instantaneous Limit" means 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.

ww) "Lateral Sewer" means that portion of the Building Sewer in the public right-of-way or easement.

xx) "Local Limit" means specific Discharge limits developed and enforced by the District upon Industrial or Commercial Users to implement the general and specific Discharge prohibitions listed in 40 C.F.R. §§ 403.5(a)(1) and (b).

yy) "MAY" means permissive.

zz) "Medical Waste" means all Waste materials generated at health care facilities, such as hospitals, clinics, physician's offices, dental practices, blood banks, and veterinary hospitals/clinics, as well as medical research facilities and laboratories, as listed in 42 U.S. § 6992a.

aaa) Monthly Average means the sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

bbb) Monthly Average Limit means the highest allowable average of daily Discharges over a calendar month, calculated as the sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month.

ccc) National Pretreatment Standard means any regulation that applies to Industrial Users and contains Pollutant Discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act. This term includes prohibitive Discharge limits established pursuant to 40 CFR § 403.5.

ddd) "Natural Outlet" means any channel including storm sewers, watercourse, pond, ditch, lake, or other body of surface or groundwater in which a flow of water occurs, either continuously or intermittently.

eee) New Source

(a) New Source means any building, structure, facility or installation that is discharging or may Discharge Pollutants, and its construction commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to the source, if those Standards are thereafter promulgated in accordance with Section 307(c) of the Act, provided one (1) of the following conditions are met:

(1) The building, structure, facility or installation is constructed at a site at which no other source is located;

(2) The building, structure, facility or installation totally replaces the process or production equipment that caused the Discharge of Pollutants at an Existing Source;

(3) The production of Wastewater generating processes of the building, structure, facility or installation is substantially independent of an Existing Source at the same site. In determining whether these

processes are substantially independent, the following factors will be considered:

- (i) The extent to which the new facility is integrated with the existing plant; and
  - (ii) The extent to which the new facility is engaged in the same general type of activity as the Existing Source.
- (b) 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 2.eee.(a)(27) and (a)(3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
- (1) Begun, or caused to begin, as part of a continuous on-site 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
  - (2) 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.

- fff) NPDES Permit means the permit has been issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to §401 of PL92-500.
- ggg) Non-Contact Cooling Water means water used for cooling which does not come into direct contact with any raw material, intermediate product, Waste product or finished product and to which the only Pollutant added is heat.
- hhh) Normal Domestic Sewage means as the same as defined in the Sewer Industrial Cost Recovery regulations of this chapter.
- iii) "Nuisance" means any substance or condition which is injurious to health or offensive to the sense or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property, or which results in a nuisance as defined by Indiana law.
- jjj) "Operator" means the person, whether under contract with the District or an employee thereof, responsible for supervising the operation of the WFT, or that person's duly authorized representative.
- kkk) "Operation and Maintenance" or "O & M" means all expenses related directly to operating and maintaining, including replacement of, the Sanitary Sewer.
- lll) Pass Through means a Discharge proceeding through the WTF into waters of the State of Indiana in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, causes the WTF to violate any requirement of its NPDES Permit, including an increase in the magnitude or duration of a violation.
- mmm) "Person" means any individual, partnership, co-partnership firm, firm, company, corporation, association, society, corporation, or group, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal

representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

nnn) pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in Standard Units (S.U.).

ooo) Phosphorous means the chemical element phosphorous, total. The laboratory determination shall be made in accordance with procedures set forth in Standard Methods as defined in this section.

ppp) "Pollutant" means any of various chemicals, substances, and refuse materials such as solid waste, sewerage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, dredged spoil, incinerator residue, filter backwash, munitions, medical wastes, rock, sand, and industrial, municipal and agricultural wastes which impair the purity of the water and/or soil.

qqq) Pretreatment means 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, discharging or otherwise introducing such Pollutants into the WTF. The reduction or alteration can be obtained by physical, chemical or biological processes or any combination thereof, by process changes, or by other means, except dilution, as prohibited by Section 5.9 of this Ordinance.

rrr) Pretreatment Requirements means any substantive or procedural requirement related to Pretreatment imposed on a User, other than a Pretreatment Standard.

sss) Pretreatment Standards or Standards means Prohibited Discharges as established in Sections 9.1 and 9.2 of this Ordinance, National Pretreatment Standards incorporated by reference in Section 9.2 of this Ordinance, and State Pretreatment Standards incorporated by reference in Section 9.4 of this Ordinance.

ttt) Private Sewer means a Sewer owned and maintained by the User for the collection and transport of Wastewater to the WTF.

- uuu) Prohibited Discharge Standards or Prohibited Discharges means absolute prohibitions against the Discharge of certain substances; these prohibitions appear in Sections 9.1 and 9.4 of this Ordinance.
- vvv) Properly Shredded Garbage means the wastes from the preparation, cooking, and dispensing of food that have been shredded to such degree that all particles will *be* carried freely under the flow conditions normally prevail in in public sewers, with no particle greater than ½ inch in any dimension.
- www) Public Entity means a political subdivision, including a municipality, a town, a county, a township or sewer district.
- xxx) Public Sewer means a Sewer owned and maintained by the District for the collection of Wastewater.
- yyy) Receiving Stream means the Elkhart River, and its respective tributaries.
- zzz) Residential User means a source of Domestic Wastewater or Domestic Wastewater discharging to the WTF from a premises or building used primarily as a domicile for one or more Persons such as detached, semi-detached and row houses, mobile homes, apartments or permanent multi-family dwellings. Transit lodging is not considered a Residential User; it is included under the Commercial User definition.
- aaaa) Retail Food Establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption, such as a restaurant, a catering operation, a market, a grocery store, a convenience store or an institution.
- bbbb) Sanitary Wastewater means the liquid and water-carried Waste from residences, commercial buildings, industrial plants, institutions, and other places that is transported by Sewers and is primarily composed of human and household Waste. Sanitary Wastewater, as received by the WTF, may contain a component of Industrial Waste.
- cccc) "Septic Tank" means a watertight structure into which sewage is discharged for settling and solids digestion.

dddd) Severe Property Damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that 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.

eeee) Sewer Lateral means the horizontal piping that extends from the end of the Building Drain to the Public Sewer or other place of disposal.

ffff) "Sewage Disposal System" means a system which is designed to receive sewage and transport the sewage to a proper sewage treatment system.

gggg) "Sewage Treatment Plant" means any arrangement of devices and structures used for treating sewage.

hhhh) Sewer Use Regulations means the regulation of the connection to and use of public and private sewers.

iiii) "Sewage Works" means all facilities for collecting, pumping, treating, and disposing of sewage.

jjjj) "Sewer" means a pipe and/or conduit which carries Wastewater or drainage water.

kkkk) "Shall" is mandatory; "may" is permissive.

llll) Significant Industrial User or SIU

(a) The term Significant Industrial User means either:

(1) All Industrial Users subject to Pretreatment Standards under Sections 9.3 and 9.4 of this Ordinance; or

(2) Any other Industrial User that:

(i) Discharges an average of 10,000 gallons per day or more of process Wastewater to the WTF. This does not include Sanitary Wastewater, Non-contact Cooling Water and boiler Blowdown Wastewater;

(ii) Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic

or organic capacity of the WTF Treatment Plant;

(iii) Is designated as such by the Operator on the basis that the Industrial User has a reasonable potential for adversely affecting the WTF's operation or for violating any Pretreatment Standard or Requirement;

(iv) Has Wastewater with a cBOD<sub>5</sub> or TSS concentration greater than 250 mg/L; or

(v) Has in its waste stream a toxic or hazardous substance, as defined by Federal or State statutes and rules.

(b) The Operator may, on its own initiative or in response to a petition received from an Industrial User, determine that an Industrial User is not a Significant Industrial User if it does not meet the requirements of Section 2.III above.

www) Significant Noncompliance (SNC) means the status of an Industrial User that has caused or allowed a violation that meets one or more of the following criteria:

(a) Chronic violations of Wastewater Discharge limits, defined here as those in which 66% or more of all the measurements taken for the same Pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2.vv of this Ordinance;

(b) Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of Wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2.kk of this Ordinance 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 violation of a Pretreatment Standard or Requirement as defined by Section 8.0 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Operator determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of WTF personnel or the general public.

(d) Any Discharge of a Pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the Operator's exercise of his suspension of service authority under Section 8 of this Ordinance to halt or prevent such a Discharge;

(e) Failure to meet, within 90 calendar days after the schedule date, a compliance schedule milestone contained in an individual Wastewater Discharge Permit, or in an enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide, within 30 calendar days after the due date, required reports such as:

(1) Baseline Monitoring Reports;

(2) 90 day compliance reports;

(3) Periodic self-monitoring reports; and

(4) Reports on compliance with compliance schedules.

(g) Failure to accurately report noncompliance; and

(h) Any other violation or group of violations that the Operator determines will adversely affect the operation or implementation of the Pretreatment program which may include a violation of BMPs.

xxx) Slug Discharge means any discharge at a flow rate or concentration, which could cause a violation of the Prohibited Discharge standards in Sections 9.16.1 and 9.16.2 of this Ordinance. A Slug Discharge is any Discharge of a non-routine, episodic

- nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the WTF's regulations, Local Limits or Permit conditions.
- yyy) Sludge means any solid, semisolid 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 such Waste having similar characteristics and effects 42 U.S.C. § 6903.
- zzz) State means State of Indiana.
- aaaa) Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.
- bbbb) Standard Methods means an assembly of analytical techniques and descriptions commonly accepted in water and Wastewater treatment as listed in 40 C.F.R. § 136 and contained in "Standard Methods for the Examination of Water and Wastewater", published jointly by the American Public Health Association, American Water Works Association and the Water Environment Federation.
- cccc) Standards see definition for "Pretreatment Standards."
- dddd) Storm Drain means a sewer which carries storm and surface waters and drainage but excludes sewage and polluted industrial wastes.
- eeee) Storm Sewer means a Sewer designed to transport only storm or surface water and does not lead to a Treatment Plant.
- ffff) Storm Water means water resulting from rain, melting or melted snow, hail or sleet.
- gggg) Storm Water Conveyance means any structural process used for transferring Storm Water between at least two points including, but not limited to, Storm Sewers, piping, ditches, swales, curbs, gutters, catch basins, channels, storm drains and roadways.
- hhhh) Superintendent means the Superintendent of the municipal sewage works of authorized deputy, agent or representative.

- iiii) Surcharge means the extra charges for Sewer service assessed customers whose Wastewater is of such a nature that it imposes upon the WTF a burden greater than that covered by the basic service charge.
- jjii) Surveillance means the ongoing systematic collection and analysis of data.
- kkkk) “Suspended Solids” means solids which either float on the surface or are suspended in water, Wastewater, sewage, or other liquids, and which are removable by laboratory filtration.
- llll) Total Solids means the sum of suspended solids and dissolved solids.
- mmmm) Toxic Pollutant means any Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other Acts. The Board reserves the right to add additional parameters demonstrated to produce toxic effects, which may or may not be on the aforementioned list.
- nnnn) Treatment Plant means that portion of the WTF designed to provide treatment to Wastewater.
- oooo) Total Solids means the sum of suspended solids and dissolved solids.
- pppp) Unpolluted Water means water of quality equal to or better than the effluent criteria in effected, or water that would not cause violation of the receiving water quality standards and would not be benefited by the discharge to the sanitary sewers and wastewater treatment facilities provided.
- qqqq) Upset means an exceptional incident in which there is unintentional and temporary noncompliance with the Effluent Limitations of this Ordinance because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance, or careless or improper operations.

- rrrr) Useful Life means a period of 15 years for equipment and 50 years for real property, other than land.
- ssss) User means a Person who discharges any Pollutant, Wastewater or any other substance into the WTF or Storm Water Conveyance. The term User includes both the owner and occupant of real estate that is the source of a Discharge into the WTF or Storm Water Conveyance.
- tttt) User Charge means a charge levied on Users of the public sewer and WTF for the User's proportionate share of the cost of Operation and Maintenance, including replacement of the WTF.
- uuuu) Utility means the District's Wastewater Utility.
- vvvv) Volatile Organic Matter means the material in the sewage solids transformed to gases or vapors when heated to 550° C for 15 to 20 minutes.
- wwww) "Waste" means Wastewater and any and all other Waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, processing, manufacturing, or industrial operation of whatever nature, including such waste placed within containers of whatever nature prior to, and for purposes of, disposal.
- xxxx) "Wastewater" means liquid or water-carried Wastes from residential, commercial, industrial, municipal, agricultural, landfill or other sources within the District that is transported and collected by a Sanitary Sewer.
- yyyy) Wastewater Constituents and Characteristics means the chemical, physical, bacteriological and radiological Waste properties, including volume, flow rate and such other properties which serve to define, classify or measure the contents, quality, quantity and strength of Wastewater.
- zzzz) Wastewater Treatment Facility (WTF) means a treatment works owned by the District, or with which the District has an agreement to provide wastewater treatment for the District. This definition includes any Sewers, pipes, and other conveyances

conveying Wastewater to the WTF treatment plant. The term does not include pipes, Sewers or other conveyances not connected to a facility providing treatment or storage. For the purposes of this Ordinance, WTF shall also include any Sewers, pipes or other conveyances that convey Wastewater to the WTF from persons outside the District who are, by contract or agreement with the District, users of the District's WTF.

aaaaa) Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

bbbbbb) Public Entity means a political subdivision, including a municipality, a town, a county, a township or sewer district.

ccccc) Waters of the State means

(a) Either:

(1) The accumulation of water, surface and underground, natural and artificial, public and private; or

(2) A part of the accumulations of water that are wholly or partially within, flow through, or border upon the State.

(b) The term does not include:

(1) A private pond; or

(2) An off-stream pond, reservoir, or facility built for reduction or control of pollution or cooling of water before Discharge unless the Discharge from the pond, reservoir, or facility causes or threatens to cause water pollution.

dddd) Abbreviations

BMP means Best Management Practice

cBOD<sub>5</sub> means five day carbonaceous biochemical oxygen demand

CFR means Code of Federal Regulations,

COD means chemical oxygen demand,

EPA means the U.S. Environmental Protection Agency,  
FOG means fats, oils and grease,  
gpd means gallons per day  
IDEM means the Indiana Department of Environmental Management,  
L means liter,  
mg means milligrams,  
mg/L means milligrams per liter,  
NPDES means National Pollutant Discharge Elimination System,  
NH<sub>3</sub>-N means ammonia nitrogen,  
PO<sub>4</sub> means total phosphorus,  
WTF means Publicly Owned Wastewater Facility or Treatment Works,  
ppm means parts per million,  
RCRA means Resource Conservation and Recovery Act  
SNC means significant non-compliance,  
SIC means Standard Industrial Classification,  
SIU means Significant Industrial User,  
S.U. means standard units,  
TRC means Technical Review Criteria,  
TSS means total suspended solids  
U.S.C. means United States Code

3. GENERAL REQUIREMENTS

a) The owner(s) of all houses, buildings, or properties used for human occupancy, recreation or other purposes, situated within the District and abutting on any street, alley or public right-of-way or easement in which there is now located or may in the future be located in a Sanitary Sewer of the District or along or across which there is access to such a Sanitary Sewer, is hereby required at the owners' expense to install toilet facilities and other Wastewater facilities therein, and to connect such facilities via the Building Sewer directly with the Sanitary Sewer in accordance with the proper provisions of this Sewer Use Ordinance, as well as the provisions of Rules and Regulations adopted by the District, within ninety (90) days after date of official notice to do so, provided that said Sanitary Sewer is within three hundred (300) feet or 30.5 meters of the property line and the property owner(s) do not meet the requirements for the exemption from connection as set forth in IC 14-33. It shall be the responsibility of the property owner(s) to connect the Building Sewer to the Sanitary Sewer. Failure to connect within ninety (90) days shall be a violation and subject to Section 10 hereof.

- b) No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, storm water, surface water ground water, roof runoff, subsurface drainage, cooling water unpolluted water or unpolluted industrial water.
- c) Storm water, surface water, ground water, roof runoff, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water shall be disposed of through a storm sewer which has adequate capacity for their accommodation.
- d) No new connection shall be made unless there is capacity available to all downstream sewers, lift stations, force mains, and sewage treatment plant including capacity for BOD and S.S.
- e) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the District, any wastewater or other polluted water except where suitable treatment has been provided in accordance with provisions of this ordinance and the NPDES permit.
- f) No person shall discharge or cause to be discharged to any natural outlet any

wastewater or other polluted water except where suitable treatment has been provided in accordance with provisions of this ordinance and the NPDES permit.

- g) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, cesspool, or other facility intended or used for the disposal of sewage.
- h) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the District and abutting on any street, ally or right-of-way in which there is now located a public sanitary sewer of the District 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 sixty (60) days after the date of official notice to do so,. Provided that said public sewer is within three (300) feet of the property line.
- i) The owner of any lot, parcel of real estate or building connecting to the sewage works shall, prior to being permitted to make a connection, pay a connecting charge in the amount of one thousand two hundred (\$1,200.00) per Equivalent Dwelling Unit. The Board of Directors now finds such a connection charge to be a reasonable and equitable pro rate cost of construction of a local or lateral sewer adequate to serve the property so connecting and the cost of providing a connection to the sewer, excavation, back filling, pavement replacement and installation of a sewer line to the property line.

#### 4. PUBLIC SANITARY SEWER UNAVAILABLE

- a) Where a public sanitary sewer is not available under the provisions of Section 2(h), the building sewer shall be connected to a private sewage disposal system which is in compliance with the Elkhart County Health Ordinance dealing with the installation, construction, maintenance and operation of private sewage disposal systems,
- b) The owner and operator of any private sewage disposal system within the Conservancy District shall obtain all required permits from the Elkhart County Health Department prior to operation all required permits from the Elkhart County

Health Department prior to operation of any private sewage disposal system within the boundaries of the Conservancy District. The owner operator of a private sewage disposal system must also notify the conservancy district prior to having any repair, work, or expansion in capacity of their system.

- c) At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 2(h), a direct connection shall be made to the public sewer in compliance with this ordinance, and any component or part of the abandoned private sewage disposal system which is not used as a component of the public sewer shall be abandoned and filled with suitable material.
- d) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the District.
- e) When a public sewer becomes available, the building sewer shall be connected to said sewer within sixty (60) days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank-run gravel or dirt.
- f) No statement contained in this article shall be constructed to interfere with any additional requirements that may be imposed by the Health Officer.

## 5. BUILDING CONNECTIONS

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

- b) There shall be two (2) classes of building sewer permits:

For residential and commercial service, and for service to establishments producing material wastes. In either case, the owner or his agent shall make application on a special form furnished by the said District. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgement of the Inspector. A permit and inspection fee of One Hundred Dollars (\$100.00) for a residential or commercial building permit and Two Hundred Dollars (\$200.00) for any industrial or commercial facility that has been determined to have five (5) or greater EDUs. The permit and inspection fee

shall be paid to the District at the time the application is filed.

For industrial service, and for service to establishments which will produce industrial or process waste which is distinguished from sanitary sewage. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of Two Hundred Dollars (\$200.00) for an industrial building sewer permit shall be paid to the District at the time the application is filed. In addition to the permit and inspection fee the owner shall be responsible for the cost of a plan review by Conservancy District's engineer. The engineer will review the design and specification of all pretreatment equipment, sampling structures, flow measurement devices, and collection system capacity.

- c) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner, the owner shall indemnify the District from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- d) The maintenance of the building sewer from the point where it enters the Conservancy Districts sewer main to the point where it enters the building, including all internal building drains, is the responsibility of the owner. All cost and expenses associated with the repair, cleaning, or improving the building sewer is the responsibility of the owner.
- e) A separate and independent building sewer shall be provided for every building and for every dwelling unit in single family detached, single family attached and duplexes developments, except that, where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer, but the Conservancy District does not and will not assume any obligation or responsibility for damages caused by or resulting from any such single connection aforementioned. In addition a mutual maintenance agreement for the shared lateral must be attached to the deed of the property(s).
- f) Old building sewers may be used in connection with new buildings only when

they are found, on examination and test by the said Inspector, to meet all requirements of this ordinance.

- g) The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointly testing and backfilling the trench, shall all conform to the requirements of the building and the plumbing code or other requirements of the building and plumbing code or other applicable rules and regulations of the District. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. manual of Practice no. 9 shall apply.
- h) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- i) No person shall make connection of roof downspouts, basement drains, exterior foundation drains, areaway drains or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- j) The connection of a building sewer into the public sewer shall conform to the requirements of the building and of the plumbing code or other applicable rules and regulations of the District, or the procedures set forth in appropriate specifications of A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
- k) The applicant for the building sewer permit shall notify the said Inspector when the building sewer is ready for inspection and connection to the public sewer. The construction shall be made under the supervision of the said Inspector or his representative.
- l) All excavations for building sewer installation must be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks,

parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the District.

- m) The District may require metering of a customer's water well to determine waste water flows if other methods of estimating waste water flow are not conclusive. The cost of the water meter shall be incurred by the customer.
- n) Any person wishing to demolish a building or remove the sanitary sewer services from any point into their property shall request from the conservancy District a sewer abandonment inspection. There will be a twenty-five (\$25.00) inspection fee for this service. After the line has been capped, sealed, and all plumbing fixtures removed from the building the inspector will issue the owner a certificate of abandonment. All construction procedures and specifications relative to abandonment shall be approved by the Conservancy District.
- o) With respect to the abandonment of existing Septic Tanks and related systems and after the property owner has connected to the Sanitary Sewer, the property owner shall adhere to the regulations set forth in the Protocol for Onsite Sewer System Abandonment or as required by the Health Officer. As a condition of connection to a Sanitary Sewer the owner shall grant a right of easement to the District to the abandoned Septic Tank and related system for the purpose of inspection.
- p) Any Person constructing a new house or other building for occupancy, employment, recreation, industrial or commercial activity within the limits of the District and abutting a public right-of-way or easement in which there is now located a Sanitary Sewer, or along or across which there is access to such a Sanitary Sewer, shall connect to such Sanitary Sewer in accordance with applicable ordinances and regulations, and shall not discharge Wastewater elsewhere than into the Sanitary Sewer.
- q) Except as herein after provided, it shall be unlawful for any Person to construct within the District limits a privy, privy vault, Septic Tank and related system, cesspool, dry well or other on-site Wastewater disposal system intended or used for the disposal of Wastewater.
- r) No unauthorized Person shall uncover, make any connection with or opening into, use, alter, or disturb any Sanitary Sewer or appurtenance thereof without first obtaining a written permit from the District. To do otherwise is a violation.

- s) No city, town, county, regional district, public institution, firm, corporation, or officer or employee thereof, or other Person, shall within the District install or contract for the construction of any Sewers, Sewage works, or other sewage facility, designed to collect, convey, treat, or otherwise dispose of any water carried or liquid Waste of domestic origin or make any material change in any such existing sewage facilities or sewage treatment or disposal works until plans and specifications, together with an engineering report supporting in detail the design set forth in such plans, shall have been submitted to and have been approved by the Elkhart County Board of Health or Health Officer and the District so far as it relates to their sanitary features.
- t) All costs and expenses incidental to the installation and connection of the Building Sewer shall be borne by the owner, with the exception that the District shall, at its expense, inspect each septic system abandonment and connection to the Sanitary Sewer prior to connection. Said inspection shall be for the purpose of insuring that pipe connected to the Sanitary Sewer is structurally sound and meets all criteria as provided in the Rules and Regulations for Building Sewers (House Connections). The owner shall indemnify the District from any loss or damage that may directly or indirectly be occasioned by the installation of the Building Sewer. The costs borne by the property owner shall include the old Septic Tank and related system abandonment, construction, and connection of Building Sewer to the Sanitary Sewer and any associated costs. The property owner shall also bear all monthly User Charges and usage costs associated with a Sewerworks.
- u) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County and/or a Health Officer.

6. BUILDING SEWER ATTACHMENTS

a. A separate and independent Building Sewer shall be provided for every Dwelling unless the District approves an alternative Building Sewer. Notwithstanding anything to the contrary herein, where one Dwelling stands at the rear of another on an interior lot and no Building Sewer can be constructed to the rear dwelling through an adjoining alley, courtyard or driveway, the Building Sewer from the front building may be extended to the rear and the whole considered as one Building Sewer. However, the District does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned.

b. Existing Building Sewers may be used in connection with new buildings or

houses only when they are determined, upon inspection and testing by the said District, to meet all requirements of this Sewer Use Ordinance.

c. The size, shape, alignment, slope and materials of construction of a Building Sewer; the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench; and the construction of the Building Sewer shall conform to the specifications and requirements found in the Rules and Regulations for Building Sewers (House Connections) and other applicable State and receiving entity rules and regulations.

d. The District shall deny any permit if the information on the application is incomplete, inaccurate, or indicates that the provisions of this Sewer Use Ordinance cannot be met.

## 7. BUILDING SEWER

a. Before commencement of construction, modification, or repair of a Building Sewer requiring excavation, the owner or his agent shall first complete an application and obtain a written permit designed by the District. The application for such permit shall be made on the Building Sewer Connection Application form furnished by the District which the applicant shall supplement with any plans, specifications, and other information as are considered pertinent and deemed necessary in the judgment of the District. A permit and inspection fee as established by the District shall be paid to the District at the time the application is filed. The amount of said fee may be amended from time to time by a separate resolution of the Board of Trustees of the District.

b. No permit shall be issued until the application has been completed to the satisfaction of the District. The District shall deny any permit if the information on the application is incomplete, inaccurate, or indicates that the provisions of this Sewer Use Ordinance cannot be met.

c. Installation, modification, or repair of a Building Sewer shall be performed in accordance with this Sewer Use Ordinance, Rules and Regulations for Building Sewers (House Connections) and other applicable State, County, and District rules and regulations.

d. After receiving an order in writing from the District, the owner, agent of the owner, the occupant or agent of the occupant of the property shall comply with the provisions of this Sewer Use Ordinance, Rules and Regulations for Building Sewers (House Connections), and other applicable State, County, and District Rules and Regulations as set

forth in said order and within the time limit included therein. Said order shall be served on the owner or may be served on any Person who, by contact with the owner, has assumed the duty of complying with the provisions of an order.

e. The District shall be allowed to inspect Building Sewers work at any stage of construction, and, in any event, the applicant for the permit shall notify the District when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within forty-eight (48) hours of the receipt of notice by the District.

f) Building Sewers under public or private property shall remain the full and sole responsibility of the property owner with regards to the maintenance, reaming, cleaning and all other related maintenance required for the normal operation of the Building Sewer. The owner shall operate and maintain the Building Sewer in a sanitary manner at all times, at no expense to the District.

g) The application for a permit shall be posted in a conspicuous place at or near the building where the Building Sewage is under construction. The notice should be plainly visible from the public thoroughfare serving said building.

h) No Person shall make connection of roof downspouts, fountain drains, sump pumps, areaway drains (basement or yard), or other clear water sources of surface runoff or groundwater to a Building Sewer which in turn is connected directly or indirectly to a Sanitary Sewer. Clear water sources include, but are not limited to, inflow, roof downspouts, foundation drains, subsurface drainage, areaway drains, driveways, parking lots, single pass non-contact cooling water, or other sources of surface water runoff or groundwater. Upon reasonable notice, the Inspector may enter Dwelling or other building to inspect connections to ensure all requirements are met. Further, the District may require present Users to disconnect existing clear water sources at the User's expense.

i) The connection of the Building Sewer into the Sanitary Sewer shall conform to the requirements of the Rules & Regulations for building Sewers (House Connectors), applicable building and plumbing code, or other applicable rules and regulations of the District. Any deviation from the prescribed procedures and materials must be approved by the District or certified representative before installation.

j) All excavations for Building Sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Street, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the said District or County. Excavation may require

specific jurisdictional permits within street rights of way. It is the user's responsibility to procure all needed permits.

k) The applicant for the Building Sewer permit shall notify the District when the Building Sewer is ready for inspection and connection to the Sanitary Sewer. Notification shall be made in accordance with the District's standard inspection procedures. The connection and testing shall be made under the supervision of the District, Inspector, or its representative using materials and techniques conforming to the requirements of the Board. The applicant shall provide access to all structures and areas of structure to the District for the purpose of establishing compliance with this Sewer Use Ordinance. The applicant shall give notice before the burial or covering of the Building Sewer and shall not cover or bury the sewer until the inspection is completed and the connection approved.

l) A Building Sewer shall be located at least fifty (50) feet from any water supply and according to the provisions outlined in the Rules & Regulations for Building Sewers (House Connections).

m) The District or its representative shall have the right to prohibit new connections when the capacity of the Sanitary Sewer is deemed insufficient due to, but not limited to, the expected flow, CBOD<sub>5</sub> or suspended solids loadings from the prospective User.

n) The District shall have the right to adopt by resolution or ordinance such other required submissions, including without limitation, amendments to this ordinance, amendments to the Industrial Pretreatment Sections of this Ordinance, an amended Industrial User Questionnaire, Policies & Procedures and such other documents as may be applicable to meet local, state or federal law.

## 8. DISCHARGE OF WASTEWATER

a) It shall be unlawful for any Person to place, deposit or permit to be deposited in any unsanitary manner on public or private property within the District, or in any area under the jurisdiction of the District, any human or animal excrement, garbage or objectionable Waste.

b) It shall be unlawful to discharge to any Natural Outlet within the District or in any area under the jurisdiction of the District, any Wastewater or other polluted waters,

except where suitable treatment has been provided in accordance with subsequent provisions of this Sewer Use Ordinance.

c) Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a Natural Outlet approved by written permit of the said District and other regulatory agencies, including without limitation, the Indiana Department of Environmental Management.

9. REGULATIONS FOR DISCHARGES

9.1 General Prohibitions

9.1.1 No Person shall Direct Discharge any Wastewater, Industrial Waste, Sanitary Wastewater or other polluted water into any Waters of the State within the corporate limits of the District without a NPDES permit and without first notifying the Operator.

9.1.2 No Person shall Discharge to any Storm Water Conveyance within the corporate limits of the District any Wastewater, Industrial Waste, Sanitary Wastewater or other Pollutant including, but not limited to, Septic Tank effluent, car wash wastewater, oil, radiator fluid, laundry wastewater, roadway accident spillage and household hazardous waste.

9.1.3 No Person shall Discharge any Wastewater to the WTF except as authorized by the Operator in accordance with the provisions of this Ordinance.

9.2 Pass Through or Interference Prohibitions

9.2.1 General Prohibitions

No Person shall introduce or cause to be introduced, directly or indirectly, into the WTF any Pollutant or Wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the WTF whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

9.2.2 Specific Prohibitions

No Person shall introduce or cause to be introduced, directly or indirectly, into the WTF

the following Pollutants, substances, or Wastewater:

- (a) A Pollutant which by reason of its nature or quantity is, or may be, sufficient either alone or by interaction with other substances to create a fire or explosion hazard in the WTF, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 CFR § 261.21. In addition, at no time shall two successive readings on an explosion hazard meter, at the point of Discharge into the system, or at any point in the system, be more than five percent or any single reading exceed 10% of the Lower Explosive Limit (LEL) of the substance measured. Such Pollutants may include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides;
- (b) A solid or viscous Pollutant, or other substances, which may cause obstruction to the flow in a Sewer or other Interference with the operation of the WTF such as, but not limited to:
- (c) Grease, Garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gasoline, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes;
- (d) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that may cause Interference or Pass Through;
- (e) Any Pollutant having a pH greater than 10.0 S.U. or less than 5.5 S.U. as determined thru the grab sample method. The WTF may require continuous monitoring to demonstrate compliance with pH by installation of a recording device;.
- (f) Any Pollutant which would either singly or by interaction with other Pollutants

result in the presence of noxious or toxic gases, vapors, or fumes within the WTF in a quantity sufficient to create a public Nuisance or hazard to human health or to prevent entry into the Sewers for maintenance, repairs, inspections, or monitoring;

(g) Any Pollutant, which may cause the WTF's Effluent or any other product of the WTF such as residues, Sludge, or scum to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a Pollutant discharged to the WTF cause the WTF to be in noncompliance with Sludge use or disposal criteria, guidelines or regulations of the Act; any criteria, guidelines, or regulations affecting Sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or State criteria applicable to the Sludge management method being used;

(h) Any Pollutant which may cause the WTF to violate its NPDES Permit;

(i) Any Wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions;

(j) Any Wastewater having a temperature which will inhibit biological activity in the WTF resulting in Interference or damage to the WTF, but in no case Wastewater causing the temperature at the introduction into the WTF to exceed 40°C (104°F);

(k) Any Pollutant, including an oxygen demanding Pollutant such as, but not limited to, cBOD<sub>5</sub> or COD, released at a flow rate which will, either singly or by interaction with other Pollutants, cause Interference with the WTF;

(l) Any Pollutant, including an oxygen demanding Pollutant such as, but not limited to, cBOD<sub>5</sub> or COD, released at a Pollutant concentration or contain concentrations or quantities of Pollutants which will, either singly or by interaction with other Pollutants, cause Interference with the WTF. In no case, shall a Slug Discharge have Pollutant concentration or contain concentrations or quantities of Pollutants that exceed the average 24 hour concentration or quantities during normal operation

(m) Any Pollutant containing any radioactive wastes or isotopes of such half-life or

concentration as may exceed limits established under applicable State or Federal regulations;

(n) Any Pollutant, which either alone or by interaction with other Pollutants, causes a hazard to human health, creates a public Nuisance, or is detrimental to the WTF;

(o) Storm Water, surface water, groundwater, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, and Non-Contact Cooling Water, unless specifically authorized by the Operator;

(p) Sludges, screenings, or other residues from the Pretreatment of Industrial Wastes;

(q) Medical Wastes, except as specifically authorized by the Operator in an Industrial Wastewater Discharge Permit;

(r) Detergents, surface-active agents, or other substances which may cause excessive foaming in the WTF; and

(s) Trucked or hauled pollutants, except as allowed by the Operator under special circumstances.

### 9.3 National Categorical Pretreatment Standards

A User who falls within a regulated industrial subcategory shall comply with the National Categorical Pretreatment Standards (40 C.F.R §§ 405-471, as amended from time to time) for that particular industrial subcategory. If the National Categorical Pretreatment Standards are less stringent than the State Pretreatment Standards or Local Pollutant Limitations applicable to the User, the User shall comply with the more stringent standards. The National Categorical Pretreatment Standards (Title 40 C.F.R. §§ 405-471), as amended from time to time, are hereby incorporated by reference into this Ordinance.

9.3.1 Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Operator may impose equivalent concentration or mass limits in accordance with Section 9.7.

9.3.2 When the limits in a categorical Pretreatment Standard are expressed only in

terms of mass of pollutant per unit of production, the Operator may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or Effluent concentration for purposes of calculating Effluent limitations applicable to individual Industrial Users.

9.3.3 When Wastewater subject to a categorical Pretreatment Standard is mixed with Wastewater not regulated by the same Standard, the Operator shall impose an alternate limit in accordance with 40 C.F.R. § 403.6(e).

#### 9.4 State Pretreatment Standards

A User shall comply with State Pretreatment Standards (327 IAC 5-18-8, as amended from time to time) applicable to the User. If the State Pretreatment Standards are less stringent than the National Pretreatment Standards or Local Pollutant Limitations applicable to the User, the User shall comply with the more stringent standards. The State Pretreatment Standards, as amended from time to time, are hereby incorporated by reference into this Ordinance.

#### 9.5 Local Pollutant Limitations

No Person shall discharge Wastewater containing concentrations, referred to as Local Pollutant Limitations, in excess of:

2.1 mg/L	arsenic
1.2 mg/L	cadmium
4.5 mg/L	copper
1.75 mg/L	cyanide
100 mg/L	total fats, oils or grease (FOG)
0.60 mg/L	lead
0.02 mg/L	mercury
4.1 mg/L	nickel
1.0 mg/L	phenol
1.2 mg/L	silver
7.0 mg/L	total chromium

4.2 mg/L                      zinc

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

9.6     Best Management Practices

The Operator may develop BMPs, by ordinance or in individual Wastewater Discharge permits, to implement Local Limits and the requirements of Sections 9.1 thru 9.9.

9.7     Equivalent Mass Limits

When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, an Industrial User may request that the District convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Operator. The District may establish equivalent mass limits only if the Industrial User meets all the conditions listed in Sections 9.7.1 and 9.7.2.

9.7.1   To be eligible for equivalent mass limits, the Industrial User must:

- (a)     Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during           the term of its individual Wastewater Discharge Permit;
- (b)     Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and   not have used dilution as a substitute for treatment;
- (c)     Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous Effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
- (d)     Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the

Discharge; and

(e) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

9.7.2 An Industrial User subject to equivalent mass limits must:

(a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(b) Continue to record the facility's flow rates through the use of a continuous Effluent flow monitoring device;

(c) Continue to record the facility's production rates and notify the Operator whenever production rates are expected to vary by more than 20% from its baseline production rates determined in 9.7.1(c). Upon notification of a revised production rate, the Operator will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(d) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs 9.7.1(a) of this Section so long as it discharges under an equivalent mass limit.

9.7.3 When developing equivalent mass limits, the Operator:

(a) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated processes of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;

(b) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(c) May retain the same equivalent mass limit in subsequent individual

Wastewater Discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 9.9. The Industrial User must also be in compliance with Section 9.17 regarding the prohibition of Bypass.

9.7.4 The Operator may convert the mass limits of the categorical Pretreatment Standards of 40 C.F.R. §§ 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Operator.

9.7.5 Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (9.7) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

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

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

## 9.8 District's Right of Revision

The District reserves the right to establish, by ordinance or permit, more stringent limitations or requirements on discharges to the WTF if the District deems it necessary in order to comply with the objectives of this Ordinance.

9.9 Dilution Prohibitions

9.9.1 No User shall ever increase the use of process water or, in any other way attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Requirement or Standard.

9.9.2 Unpolluted water, including, but not limited to, District water, Non-Contact Cooling Water, or Blowdown shall not be discharged to the WTF for purposes of diluting Wastewater in order to reduce Sewer rates or charges of the User.

9.10 Fats, Oil and Grease

9.10.1 Control devices such as interceptors, separators, and traps shall be installed at all Retail Food Establishments and at all Industrial or Commercial User's facilities when, in the opinion of the Operator, the control device is necessary to contain fat, oil, grease, sand, or other harmful inert materials in the User's Wastewater.

9.10.2 The User shall be responsible for determining the appropriate size and type of control device to be used at their facility.

9.10.3 The control device shall be located as close to the source of fat, oil, grease or sand laden waters as possible. The placement of the control device shall allow the cover to be visible at all times and easily removable for cleaning. Clearances shall be such that with the cover removed, the internal baffling can be serviced and all wetted surfaces are visible.

9.10.4 Each control device shall be clearly labeled on the cover. The label should identify the type of device such as "Grease Trap", "Oil Separator", or "Sand Interceptor".

9.10.5 The control device shall be regularly pumped and maintained with maintenance and disposal records available for inspection. Records shall be retained onsite for a minimum of three years.

9.11 Control Manhole Requirements

9.11.1 All non-Residential Users who own, operate, or maintain a commercial or industrial facility connected to the WTF who make a new connection or modify an existing connection to the WTF shall install a Control Manhole unless the Operator determines that a Control Manhole is not required.

9.11.2 Additionally, the Operator shall have the authority to require any User, at the User's expense, to install a Control Manhole if determined that such manhole is necessary to protect the WTF.

9.12 Limitations on Point of Discharge

No person shall Discharge any Waste, Wastewater, Pollutant or other substance directly into a manhole or other opening in the WTF other than through the approved Sewer Lateral, except in accordance with the terms of this Ordinance or by express written permission of the Operator and or District Board.

9.13 Regulation of Waste Received from Other Jurisdictions

9.13.1 If another Public Entity located outside of the District's Sewer service area, contributes Wastewater to the WTF, the District shall enter into an inter-local agreement with the contributing Public Entity.

9.13.2 Prior to entering into an agreement required by Section 9.13.1 of this Ordinance, the District shall request the following information from the contributing Public Entity:

- (a) A description of the quality and volume of Wastewater discharged to the WTF by the contributing Public Entity;
- (b) An inventory of all Users located within the contributing Public Entity that are discharging to the WTF; and
- (c) Such other information as the District may deem necessary.

9.13.3 An inter-local agreement, as required by Section 9.13.1 of this Ordinance, shall

contain the following conditions:

- (a) A requirement for the contributing Public Entity to adopt a Sewer use ordinance which is at least as stringent as this Ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 9.3.2 of this Ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the District's ordinance or Local Limits;
- (b) A requirement for the contributing Public Entity to submit a revised User inventory on at least an annual basis;
- (c) A provision specifying which Pretreatment implementation activities, including Industrial Wastewater Discharge Permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing Public Entity; which of these activities will be conducted by Operator and which of these activities will be conducted jointly by the contributing Public Entity and the Operator;
- (d) A requirement for the contributing Public Entity to provide the Operator with access to all information that the contributing Public Entity obtains as part of its Pretreatment activities;
- (e) Limits on the nature, quality, and volume of the contributing Public Entity's Wastewater at the point where it Discharges to the WTF;
- (f) Requirements for monitoring the contributing Public Entity's Discharge;
- (g) A provision ensuring the Operator access to the facilities of Users located within the contributing Public Entity's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Operator; and
- (h) A provision specifying remedies available for breach of the terms of the

inter-local agreement.

9.14 Acceptance of Wastewater - Unusual or Extraordinary Circumstances

The Operator, acting on behalf of the WTF, may make arrangements with any Person when, in the opinion of the Operator, unusual or extraordinary circumstances warrant acceptance of certain Wastewater for treatment, subject to payment of applicable fees. Under no circumstances shall the Operator allow the Discharge of any Wastewater to the WTF, if it will violate any section of this Ordinance or which permits the Person to violate any applicable Pretreatment Standard or Requirement.

9.15 Right to Reject Wastewater

The Operator shall have the right to reject Wastewater and prohibit the Discharge of rejected Waste into the WTF. The Operator may require Pretreatment of the Wastewater when the strength or character of the Wastewater is such that it could cause damage to or interfere with the operation of the WTF.

9.16 Spills, Slug Discharges and Operational Upsets

9.16.1 Slug Discharge Prevention/Control Plan

(a) Each Significant Industrial User (SIU) shall provide protection from spills or Slug Discharges. The Operator shall determine if a Slug Discharge control plan is required by an SIU. An SIU that is required to have a Slug discharge control plan shall implement the plan and not commence discharging to the WTF until the plan has been submitted to the Operator. The Operator's review of such plan, including any facilities and operating procedures, shall not relieve the SIU from the responsibility to modify such plan as necessary to maintain compliance with applicable Federal, State, and local regulations. In addition, the submission of such plan to the Operator shall not relieve the SIU of its responsibility to comply with all other laws and regulations governing the use, storage, and transportation of hazardous substances. The SIU shall provide and maintain all facilities needed to implement the plan.

(b) The Slug Discharge control plan may be part of an SIU's existing contingency

plan, emergency response plan, or spill plan developed under other Federal, State or local regulations. At a minimum, the following elements shall be part of the submitted plan:

- (1) Description of Discharge practices, including non-routine batch discharges;
  - (2) Description of stored chemicals, including chemical name, amount stored and storage location;
  - (3) Notification procedures, in accordance with paragraph 9.16.2 of this Section, for immediately notifying the WTF of spills or Slug Discharges, including any Discharge prohibited by this Ordinance.
  - (4) If necessary, procedures to prevent adverse impacts from Slug Discharges or spills, including, but not limited to, the following:
    - (i) Inspection and maintenance of storage areas;
    - (ii) Handling and transfer of materials;
    - (iii) Loading and unloading operations;
    - (iv) Control of plant site runoff;
    - (v) Worker training;
    - (vi) Building of containment structures or equipment;
    - (vii) Measures for containing toxic organic pollutants, including solvents; and
    - (viii) Measures and equipment for emergency responses.
- (c) Such plans shall be revised and updated whenever plant operational changes affect the validity of the plans, but in any case, not less often than every three years. Failure to comply with this requirement may result in administrative enforcement as defined in Section 10.1 of this Ordinance. Any significant plan revisions, including revisions involving construction of new facilities, shall be submitted to the Operator prior to implementation of such revisions.
- (d) Notice to Employees

A notice shall be permanently posted on the SIU's bulletin board or other prominent place advising employees who to call in the event of a spill or Slug Discharge. Employers shall insure that all employees who may cause such a spill or Slug Discharge to occur are advised of the emergency notification procedure.

9.16.2 Reports of Spills, Slug Discharges and Operation Upsets

(a) Oral Notice

The User shall notify the District's Public Works and Utilities Department by telephone within 15 minutes of becoming aware of any spill, Slug Discharge, or operation Upset. The notification shall include all information known at that time, including, but not limited to location and duration of the discharge, type of Waste, including concentration, pH, volume and corrective actions.

(b) Written Notice

(1) Within five working days following such an incident, the User shall submit to the Operator a detailed written report signed by the User describing the cause of the Discharge and the measures to be taken by the User to prevent similar future occurrences.

(2) 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 WTF, fish kills, or any other damage to person property or environment, damage to person, property or the environment.

(3) Such notification shall not relieve the User of any fines, civil penalties, or other liability, which may be imposed by this Ordinance or other applicable law.

(4) Following such an incident, the User may be required by the Operator to appear before the District and provide a full explanation of the Discharge and of steps being taken to prevent its reoccurrence.

9.17 Industrial Pretreatment Bypasses

#### 9.17.1 Allowable Bypasses

An Industrial User may allow a Bypass to occur if:

- (a) The Bypass does not cause a violation of this Ordinance or a condition of the Industrial User's Wastewater Discharge Permit;
- (b) The Bypass is for the sole purpose of allowing for essential maintenance of the facility to assure future efficient operation; and
- (c) The Industrial User provides notification to the Operator as specified in Section 9.17.3 of this Ordinance.

These Allowable Bypasses are not subject to the provisions in Section 9.17.2 of this Ordinance.

#### 9.17.2 Prohibited Bypasses

(a) In the event a Prohibited Bypass occurs, the Operator may take enforcement action against an Industrial User for such Bypass, unless the Industrial User can establish to the satisfaction of the Operator the following conditions:

- (1) Such Bypass was unavoidable to prevent loss of life, personal injury or Severe Property Damage;
- (2) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated Wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if, in the opinion of the Operator, adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent such a Bypass from occurring during normal periods of equipment downtime or preventative maintenance; and
- (3) The Industrial User complied with the notification requirements as specified in Section 9.17.3 of this Ordinance.

(b) The Operator may approve an anticipated Bypass, after considering its effects on the public, the WTF and the environment, if the Operator determines that it will meet the three conditions listed in Section 9.17.1 above.

### 9.17.3 Notification of Bypasses

With any Bypass, the Industrial User shall comply with the following notification requirements.

#### (a) Anticipated Industrial Pretreatment Bypasses

If an Industrial User knows in advance of the need for an Industrial Pretreatment Bypass, the Operator shall receive written notification from the Industrial User at least 48 hours before the date of such Bypass describing the cause of the Bypass, the Bypass's impact on any Effluent limits, and the anticipated date and duration of the Bypass.

#### (b) Unanticipated Industrial Pretreatment Bypasses

An Industrial User shall notify the Operator of any unanticipated Industrial Pretreatment Bypass. The notification shall include the following:

(1) Oral notice to the Operator after the Industrial User becomes aware of the Bypass. The notification shall include all information known at that time, including, but not limited to location and duration of the discharge, type of Waste, including concentration, pH, volume and corrective actions; and

(2) A written report within five calendar days of the time the Industrial User becomes aware of such Bypass. This report shall specify the following:

(i) A description of the Bypass, the cause thereof, and the Bypass's impact on any Effluent limits;

(ii) The volume and duration of the Bypass, including exact dates and times;

- (iii) If the cause of the Bypass has not been corrected, the anticipated time the Bypass is expected to continue; and
- (iv) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass.

9.18 Compliance Schedules

9.18.1 Any User, which is not in compliance with any limitations or requirements of this Ordinance, shall develop a compliance schedule of corrective measures to be taken in order to return to compliance. This schedule shall be submitted to the Operator for review and approval. If the User does not submit an acceptable schedule, the Operator may develop and enforce a schedule for the User. This schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional facilities required for the User to comply with this Ordinance.

This may include, but is not limited to, dates relating to:

- (a) Hiring an engineer;
- (b) Hiring other appropriate personnel;
- (c) Completing preliminary plans;
- (d) Completing final plans and specifications;
- (e) Executing contracts for major components;
- (f) Commencing construction;
- (g) Completing construction and startup; and
- (h) All other acts necessary to achieve compliance with this Ordinance.

9.18.2 Any User subject to a compliance schedule shall submit a progress report to the Operator no later than 14 calendar days following each date in the compliance schedule. This report shall include whether the User complied with the increment of progress to be met on that date, the reason for any delay, if the date was not met, and the steps being taken to return to compliance. In no event, can more than nine months elapse between progress reports.

9.19 Duty to Comply

All Users shall comply with all applicable State and Federal Pretreatment regulations.

9.20 Certification of Wastewater Treatment Plant Operators

Any Person who works at an Industrial or non-industrial Wastewater treatment plant in the capacity of a Wastewater treatment operator shall be certified in accordance with 327 IAC 5-22, as amended from time to time.

9.21 Duty to Mitigate - Prevention of Adverse Impact

All Users shall take all reasonable steps to minimize or prevent any adverse impact of any Discharge in violation of this Ordinance which has a reasonable likelihood of adversely affecting human health, the WTF, the Receiving Stream or the environment.

9.22 Hazardous Waste Notification

9.22.1 Any Industrial User, discharging to the WTF as a part of its waste stream any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 C.F.R. § 261, shall notify the WTF in writing of such Discharge. All hazardous waste notifications shall include:

- (a) An identification of the hazardous constituents contained in the waste as set forth in 40 C.F.R. § 261;
- (b) The type of Discharge (continuous, batch or other);
- (c) An estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months; and
- (d) A certification that the User has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

9.22.2 In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Operator of the Discharge of such substance within 90 days of the effective date of such regulations.

9.22.3 The Operator may prohibit the Discharge of any waste to the WTF if it will cause

endangerment to the health or welfare of persons, the environment, causes Interference to the WTF or causes the District to violate any condition of its NPDES Permit.

9.22.4 This provision does not create a right to Discharge any substance not otherwise permitted to be Discharged by this Ordinance, a permit issued hereunder, or any applicable Federal or State law.

9.23 Notification of Changed Discharge or Production

9.23.1 All Significant Industrial Users shall notify the WTF at least 30 calendar days in advance of any substantial change in the volume or character of Pollutants in their Discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification as required in Section 9.22 of this Ordinance.

9.23.2 Industrial Users are required to notify the Operator immediately of any changes at its facility affecting the potential for a Slug Discharge

9.23.3 Any User shall notify the Operator immediately after becoming aware of any Discharge by the User constituting a violation of this Ordinance.

9.23.4 Any Significant Industrial User operating under an Industrial Wastewater Discharge Permit incorporating an equivalent mass or concentration limit calculated from a production based standard shall notify the Operator within two business days after the Industrial User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Operator of such anticipated change will be required to meet the mass or concentration limit in its permit that was based on the original estimate of the long-term average production rate.

10. Industrial Pretreatment

10.1.1 SIUs shall provide Wastewater treatment as needed to comply with this Ordinance and shall achieve compliance with all National or State Categorical Pretreatment Standards within the time limitations as specified in the Categorical Pretreatment Regulations. A New Source SIU shall install and shall start-up all pollution control equipment required to meet applicable

Pretreatment Standards before beginning to Discharge to the WTF. Such New Sources shall meet all applicable Pretreatment Standards and Requirements in the shortest time, not to exceed 90 days after the start of Discharge to the WTF. An SIU shall provide, operate and maintain any facilities required to pretreat Wastewater to meet applicable Pretreatment Standards

10.1.2 Detailed plans showing the Pretreatment facilities and operating procedures shall be submitted to the Operator before construction of the facility for review to determine accessibility and safety of sampling locations throughout the Pretreatment facilities. The Operator's review of such plans and operating procedures will in no way relieve the SIU from the responsibility of modifying the facility as necessary to produce an Effluent meeting the requirements of this Ordinance and Categorical Pretreatment Standards. Any subsequent changes in the Pretreatment facilities or method of operation shall be reported to the Operator prior to the SIU's initiation of the changes.

10.1.3 At all times SIUs shall properly maintain and operate all control facilities and systems installed or used by the SIU to achieve compliance with this Ordinance. Such facilities shall at all times be accessible to inspection by the Operator.

## 10.2 Industrial Wastewater Discharge Permits

### 10.2.1 General

(a) All SIUs proposing to connect to or Discharge to the WTF shall obtain an Industrial Wastewater Discharge Permit before connecting to or commencing to Discharge to the WTF.

(b) All non-Residential Users shall complete and submit to the Operator or District an Industrial User's Wastewater Questionnaire. Based on the information contained in the completed Industrial User's Wastewater Questionnaire, the Operator may require a User to apply for and obtain an Industrial Wastewater Discharge Permit.

### 10.2.2 Permit Application

All Users who are required to obtain an Industrial Wastewater Discharge Permit shall complete, sign and submit to the Operator an application on the form provided by the

Operator or District, accompanied by the appropriate fees as listed in the District's Rate Ordinance.

(a) Application Information

In support of the permit application, each User may be required to submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and facility location;
- (2) Standard Industrial Classification (SIC) numbers according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Date of construction of any building, structure, facility or installation that is discharging or may Discharge Pollutants to the WTF;
- (4) Wastewater Constituents and Characteristics including, but not limited to, those mentioned in Section 9.5 of this Ordinance, as determined by a reliable analytical laboratory using sampling and analysis techniques performed in accordance with the most current version of 40 C.F.R. § 136;
- (5) Time and duration of process flow Discharge;
- (6) Average daily and estimated 30 minute peak Wastewater flow rates, including daily, monthly and seasonal variations if any;
- (7) Site plans, floor plans, mechanical and plumbing plans, and details to show all Sewers, Sewer connections, and appurtenances by the size, location and elevation and a current water use schematic;
- (8) Make and model of all current or proposed flow monitoring devices used for the purposes of compliance or billing;
- (9) Detailed description of the production process and Pretreatment process alone with a schematic of those systems with all components clearly identified;
- (10) Description of activities, facilities and plant processes on the premises, including all materials, which are or could be discharged;

- (11) Basis of design of the Pretreatment facility, including, where applicable:
- (i) Design Loading, including average, peak and future;
  - (ii) Rationale for process selection; and
  - (iii) Calculation of predicted Effluent quality and loading under normal and peak operating conditions;
- (12) Where known, the nature and concentration of any Pollutants in the Discharge which are limited by any local, State or National Pretreatment Standards, including any listed or characteristic hazardous wastes as defined in federal regulations (40 C.F.R. §261) and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis, and if not, whether additional Operation and Maintenance or additional Pretreatment is required for the User to meet applicable Pretreatment Standards;
- (13) If additional Pretreatment or Operation and Maintenance will be required to meet the Pretreatment Standards, the User shall provide the schedule by which they will meet the Standards. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. In addition, the following conditions shall apply to this schedule:
- (i) The schedule shall contain phases of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards which includes, but is not limited to hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction;
  - (ii) No phase referred to in paragraph (i) shall exceed nine months;
- and

(iii) No later than 14 calendar days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Operator, including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports to the Operator;

(14) Number of employees, hours of operation of the User's plant and proposed or actual hours of operation of Pretreatment system;

(15) Proof that any required Wastewater treatment system at the User's facility is operated under a certified operator in accordance with 327 IAC 5-22, as amended from time to time;

(16) Each product and by-product produced by type, amount, process or processes and rate of production;

(17) Type and amount of raw materials processed including the average and maximum per day;

(18) List of any environmental control permits held by or for the facility; and

(19) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the Discharge based on Section 10.3.5 (40 C.F.R. § 403.12(e)(2)).

(20) Measurement of Pollutants.

(i) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

(ii) The results of sampling and analysis identifying the nature and

concentration or mass, where required by the Standard or by the Operator, of regulated pollutants in the discharge from each regulated process.

(iii) Instantaneous, Daily Maximum, and long-term average concentrations or mass, where required, shall be reported.

(iv) The samples shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 10.5 of this Ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Operator or the applicable Standards to determine compliance with the Standard.

(v) Sampling must be performed in accordance with procedures set out in Section 10.5 of this Ordinance.

(21) Any other information as may be deemed by the Operator and or District to be necessary to evaluate the permit application.

(b) Application Submission Time Frames

(1) New Sources required to obtain an Industrial Wastewater Discharge Permit shall submit an application to the Operator at least 180 calendar days prior to the date when the New Source intends to commence discharging to the WTF. New Sources may submit an application less than 180 calendar days prior to the date the New Source intends to commence discharging to the WTF with prior approval from the Operator and or District.

(2) In the case of an initial issuance of an Industrial Wastewater Discharge Permit to an Existing Source or to an Industrial User determined by the Operator to be subject to the permit requirements, an application shall be submitted to the Operator no later than 120 calendar days after the latter of:

(i) The promulgation of an applicable National or State Categorical Pretreatment Standard; or

(ii) The date of notification by the Operator of a determination made according to paragraph 10.2.1(b) of this Section.

(3) An Industrial User with an existing permit shall submit an application to the Operator at least 90 calendar days prior to a planned expansion or modification of production or treatment facilities or processes that are likely to cause a substantial change in the volume or character of Pollutants discharged to the WTF by the Industrial User. An application may be submitted in less than 90 calendar days with prior approval of the Operator and or District.

(c) Signatories to Permit Applications

All permit applications shall be signed as follows:

(1) For a corporation: by a responsible corporate officer. For purposes of this section, “a responsible corporate officer” means either of the following:

(i) A president, secretary, treasurer, any vice president of the corporation in charge of a principal business function, or any other person who performs similar policy-making or decision-making functions for the corporation; or

(ii) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with

environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Individual Wastewater Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.

(3) Any Person signing a document under Section 10.2.2(c)(1) or 10.2.2(c)(2) shall make the following certification:

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

### 10.2.3 Permit Modification, Revocation and Termination

(a) The permittee shall be informed by the Operator of any proposed permit changes at least 30 calendar days prior to the effective date of any change.

(b) A permit may be modified, in whole or in part, revoked or terminated during its term for cause as specified in this Section 10.2.3. If the District determines that cause exists for modification or revocation of a permit, the District may require from the permittee an updated application or a pertinent portion of an application if such current

information is needed to prepare the permit.

(c) Causes for modification, revocation or termination of a permit include, but are not limited to the following:

- (1) Violation of any term or condition of the permit;
- (2) Failure of the permittee to disclose fully all relevant facts or any misrepresentation of any relevant facts by the permittee in an application or during the permit issuance process;
- (3) A change in any condition that requires either a temporary or a permanent reduction or elimination of any Discharge controlled by the permit, e.g., plant closure, a change in State law that requires the reduction or elimination of the Discharge, or information indicating that the permitted Discharge poses a substantial threat to human health or welfare;
- (4) Failure of the permittee to accurately report the Wastewater Constituents and Characteristics of the permittee's Discharge;
- (5) Failure of the permittee to report significant changes in operations or Wastewater Constituents and Characteristics;
- (6) Refusal of reasonable access to the permittee's premises for the purpose of inspection or monitoring; or
- (7) Failure to implement all required plans including, but not limited to the following:
  - (i) Toxic Organic Management Plan;
  - (ii) Mercury Abatement Plan; and
  - (iii) Spill Prevention Plan.

(d) In addition to the provisions of paragraphs (b) and (c), a permit may be modified for any of the following causes:

- (1) Material and substantial alterations or additions to the User's operation

which were not covered in the effective permit, e.g., production changes, relocation or combination of Discharge points, changes in the nature or mix of products produced, provided that such alterations do not constitute total replacement of the process or production equipment causing the Discharge which converts it into a New Source; or

(2) Within nine months of the promulgation of a National or State Categorical Pretreatment Standard, the Industrial Wastewater Discharge Permit of Users subject to such standards shall be modified to require compliance with such standard within the time frame prescribed by such standard. In addition, the User with an existing Industrial Wastewater Discharge Permit shall submit an updated application to the Operator within 180 days after the promulgation of the applicable Categorical Pretreatment Standard.

(e) A permittee shall:

(1) Report to the Operator plans for or information about any activity that has occurred or will occur that would constitute cause for modification or revocation of a permit under this Section 10.2.3; and

(2) Comply with the existing permit until it is modified or reissued.

#### 10.2.4 Permit Conditions.

(a) Industrial Wastewater Discharge Permits shall be subject to all provisions of this Ordinance, all other applicable regulations, and User charges and fees established in the District Rate Ordinance. Permits shall contain the following:

(i) A statement that indicates the Industrial Wastewater Discharge Permit issuance date, expiration date and effective date;

(ii) A statement that the Industrial Wastewater Discharge Permit is nontransferable without prior notification to the Operator in accordance with

- Section 10.2.7 of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing Industrial Wastewater Discharge Permit;
- (iii) Limits on the average and maximum Wastewater Constituents and Characteristics;
  - (iv) Limits on average and maximum rate and time of Discharge or requirements for flow regulations and equalization;
  - (v) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
  - (vi) Requirements for installation and maintenance of inspection and sampling facilities, and for providing entry for sampling and inspection;
  - (vii) Specifications for monitoring programs, which may include sampling locations, frequency of sampling, number and type of samples, and standards for tests and reporting, schedules;
  - (viii) Requirements for submission of technical reports or Discharge reports;
  - (ix) Requirements for maintaining, retaining and allowing access to facility records relating to Wastewater Discharge;
  - (x) Requirements for notification to the Operator of any new introduction or substantial change in the volume or character of the Wastewater Constituents or Characteristics being introduced into the WTF;
  - (xi) Requirements for notification of spills, Slug Discharges or Upsets in accordance with Section 9.16 of this Ordinance, or other violations of this Ordinance;
  - (xii) The process for seeking a waiver from monitoring for a Pollutant neither present nor expected to be present in the Discharge in accordance with Section 10.3.5;
  - (xiii) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance

schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and

(xiv) Any grant of the monitoring waiver by the Operator (Section 10.3.5) must be included as a condition in the User's permit or other control mechanism.

(b) Industrial Wastewater Discharge Permits may contain the following:

(i) Compliance schedules;

(ii) Requirements to develop and implement spill and Slug Discharge control plans in accordance with Section 9.16 of this Ordinance;

(iii) Requirements for installation, Operation and Maintenance of pollution control equipment; and

(iv) Other conditions as deemed appropriate by the Operator to ensure compliance with local Ordinances and State and National Pretreatment Standards and Requirements.

#### 10.2.5 Permit Duration

An Industrial Wastewater Discharge Permit shall be issued for any specified time period not exceeding five years. The User shall apply for permit renewal a minimum of 180 days prior to the expiration of the User's existing permit.

#### 10.2.6 Continuation of Expired Permit

An expired Industrial Wastewater Discharge Permit will continue to be effective and enforceable until the permit is reissued if:

(a) The permittee has submitted a complete permit application at least 180 days prior to the expiration date of the User's existing permit; and

(b) The failure to reissue the permit, prior to expiration of the previous permit, is not due to any act or failure to act on the part of the permittee.

#### 10.2.7 Permit Transfer

Industrial Wastewater Discharge Permits are issued to a specific User for a specific operation. A permit may be transferred to another Person by a permittee, without

modification or revocation, if the following events occur:

(a) Industrial Wastewater Discharge Permits may be transferred to a new owner only if the permittee gives at least 30 days advance notice to the Operator and the Operator approves the Industrial Wastewater Discharge Permit transfer. The notice to the Operator must include a written certification by the new owner which:

- (i) States that the new owner has no immediate intent to change the facility's operations and processes;
- (ii) Identifies the specific date on which the transfer is to occur; and
- (iii) Acknowledges full responsibility for complying with the existing Industrial Wastewater Discharge Permit.

Failure to provide advance notice of a transfer renders the Industrial Wastewater Discharge Permit void as of the date of facility transfer.

(c) Within 30 calendar days after receiving the transfer notification from the permittee the Operator shall notify the current permittee and the transferee of the need to modify, revoke or terminate the permit. The Operator may require that a new application be filed rather than agreeing to the transfer of the permit.

#### 10.2.8 Permit Comment Period

The District shall provide for a 20 calendar day comment period prior to the issuance of an Industrial Wastewater Discharge Permit. A User may submit written comments to the Board during this comment period setting forth all facts or reasons known to the User which may be relevant to a decision by the District on the permit requirements.

#### 10.2.9 Records Retention

Records shall be retained and preserved by the User for a minimum period of three years from the time of their creation. This includes documentation associated with Best Management Practices established under Section 9.6 along with any additional records

or information obtained pursuant to monitoring activities undertaken by the User. All records that pertain to matters which are the subject of any enforcement action or litigation shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitations with respect to any and all appeals have expired. This period of retention shall also be extended when requested by the Operator, the District, or the Approval Authority.

### 10.3 Reporting Requirements

In addition to the notification and reporting requirements specified in Sections 9.16, 9.17, 9.22, 9.23 and 10.2, Industrial Users shall provide the following information and reports. All information and reporting requirements under this section shall be submitted in writing to the Operator.

#### 10.3.1 Self-Monitoring Reports

All SIUs shall submit all notices and self-monitoring reports that are deemed necessary by the Operator to assess and assure compliance by SIUs with applicable Pretreatment Standards and Requirements. These reports shall be required according to the conditions specified in an SIU's Industrial Wastewater Discharge Permit and shall be certified and signed as required in Section 10.2.2(a)(3).

##### (a) Re-sampling Requirement

If sampling performed by the SIU indicates a violation, the SIU shall notify the Operator within 24 hours after becoming aware of the violation. The SIU shall repeat the sampling and analysis and submit the results of the repeat analysis to the Operator within 30 calendar days after notification unless a shorter time is specified by the Operator.

##### (b) Additional Self-Monitoring

If an SIU monitors any Pollutant more frequently than required by the Operator, using procedures established by 40 C.F.R. § 136, the SIU shall include the results of this monitoring in the report.

#### 10.3.2 Baseline Monitoring Report

Upon promulgation of a new or revised National Categorical Pretreatment Standard, all affected Industrial Users shall submit the following reports to the Operator on forms provided by the Operator;

(a) Within 180 calendar days after the effective date of a Categorical Pretreatment Standard, Existing Sources subject to such Categorical Pretreatment Standards who are currently discharging to or scheduled to discharge to the WTF shall be required to submit a report containing the information listed in subparagraph (c) of this Section 10.3.2;

(b) At least 90 calendar days prior to commencement of Discharge to the WTF, New Sources and sources that become Industrial Users subsequent to the promulgation of an applicable Categorical Pretreatment Standard shall be required to submit a report which contains the information listed in subparagraphs (c)(1) through (c)(5) of this Section 10.3.2. New Sources shall also be required to include in this report information on the method of Pretreatment the Industrial User intends to use to meet applicable Pretreatment Standards. New Sources shall give estimates of the information requested in subparagraphs (c)(4) and (c)(5) of this Section 10.3.2;

(c) The Baseline Monitoring Report shall contain the following information:

(1) Identifying information. The Industrial User shall submit the name and address of the facility including the name of the owner and operator;

(2) Applicable permits. The Industrial User shall submit a list of any other environmental control permits held by the owner or operator of the facility;

(3) Description of operations. The Industrial User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operations performed by such Industrial User. This description should include a schematic process diagram, which indicates points of Discharge to the WTF from the regulated processes;

(4) Flow measurement. The Industrial User shall submit information showing the measured average and maximum daily flow, in gallons per day, to

the WTF from each regulated process stream;

(5) Measurement of pollutants.

(i) The Industrial User shall identify the Pretreatment Standards applicable to each regulated process;

(ii) In addition, the Industrial User shall submit the results of required sampling and analysis identifying the nature and concentration or mass of regulated Pollutants in the Discharge from each regulated process. Where required, both the daily maximum and the average concentration or mass shall be reported. The sample shall be representative of daily operations;

(iii) A minimum of four Grab Sampling events shall occur. All samples shall be properly collected and analyzed for pH, cyanide, phenol, FOG, and volatile organics;

(iv) For all other Pollutants at facilities in which historical sampling data do not exist, a minimum of four 24-hour composite samples shall be obtained through flow-proportional composite sampling techniques. The Operator may waive flow-proportional composite sampling for any Industrial User that demonstrates that flow-proportional sampling is not feasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four Grab Samples over a period greater than one hour, where the Industrial User demonstrates that this will provide a representative sample of the Effluent being discharged. At facilities for which historical sampling data are available, the Operator may authorize a lower minimum;

(v) The Industrial User shall take a minimum of one representative sample to compile data necessary to comply with the requirements of

subparagraph (c) (5) of this Section 10.3.2;

(vi) Samples shall be taken immediately downstream from a Pretreatment facility if such a facility exists or immediately downstream from the regulated process if no Pretreatment facility exists;

(vii) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 C.F.R § 136, as amended. Where 40 C.F.R § 136, does not contain sampling or analytical techniques for the Pollutant in question, or where the Operator determines that the sampling and analytical techniques described in 40 C.F.R § 136, are inappropriate for the Pollutant in question, then sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, approved by the Operator may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for Industrial Pretreatment measures; and

(viii) The Baseline Monitoring Report shall indicate the time, date and place of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant discharges to the WTF.

(6) Certification statement. The Industrial User shall submit a statement certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis. If Pretreatment Standards are not being met, then the Certification Statement shall specify whether additional O & M or additional Pretreatment is required for the Industrial User to meet the Pretreatment Standards and Requirements;

(7) Compliance schedule. If additional Pretreatment or O & M are required to meet the Pretreatment Standards, the Industrial User shall provide a

compliance schedule by which the Industrial User will provide such additional Pretreatment or O & M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The conditions contained in Section 7.18 shall apply to the schedule required by this section; and

- (8) Other. Industrial Users shall submit any other information required as listed in 40 C.F.R. §§ 403.12(b)(1) - (7).

#### 10.3.3 Ninety-Day Compliance Report

Within 90 calendar 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 WTF, any Industrial User subject to such Pretreatment Standards and Pretreatment Requirements shall submit to the Operator a report containing the information described in Section 10.3.2 of this Ordinance. For Industrial Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. § 403.6 (c), this report shall contain a reasonable measure of the Industrial User's long-term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant discharge per unit of production or other measure of operation, this report shall include the Industrial User's actual quantity of product produced during the appropriate sampling period.

#### 10.3.4 Periodic Compliance Reports

Except as specified in Section 10.3.5, all Significant Industrial Users must, at a frequency determined by the Operator, submit no less than twice per year reports indicating the nature, concentration of Pollutants in the Discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment

Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Operator or the Pretreatment Standard necessary to determine the compliance status of the SIU.

#### 10.3.5 Sampling Waiver

Pursuant to 40 C.F.R. § 403.12 and this Ordinance, the Operator may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a Pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the Pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

- (a) The waiver may be authorized where a Pollutant is determined to be present solely due to Sanitary Wastewater discharged from the facility provided that the Sanitary Wastewater is not regulated by an applicable categorical Standard and otherwise includes no process Wastewater;
- (b) The monitoring waiver is valid only for the duration of the effective period of the Individual Wastewater Discharge Permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent Individual Wastewater Discharge Permit. See Section 10.2.2(a)19;
- (c) In making a demonstration that a Pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process Wastewater prior to any treatment present at the facility that is representative of all Wastewater from all processes;
- (d) Pursuant to 40 C.F.R. § 403.6, the request for a monitoring waiver must

be signed in accordance with Section 10.3.8, and include the certification statement in Section 10.2.2(a)(3);

(e) Non-detectable sample results may be used only as a demonstration that a Pollutant is not present if the EPA approved method from 40 C.F.R. § 136 with the lowest minimum detection level for that Pollutant was used in the analysis;

(f) Any grant of the monitoring waiver by the Operator must be included as a condition in the SIU's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Operator for 3 years after expiration of the waiver;

(g) Upon approval of the monitoring waiver and revision of the User's permit by the Operator, the Industrial User must certify on each report with the statement in Section 10.3.6 below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User;

(h) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately comply with the monitoring requirements of Section 8.3.4, or other more frequent monitoring requirements, and notify the Operator; and

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

#### 10.3.6 Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 10.3.5 must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the User.

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of

my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 10.3.4 of this Ordinance.

10.3.7 Reports from Unpermitted Users

All Users not required to obtain an Individual Wastewater Discharge Permit shall provide appropriate reports to the Operator as the Operator may require.

10.3.8 Signatory Requirements and Report Certification

(a) All reports required by this Ordinance and other information requested by the Operator shall be submitted with the certification statement in Section 8.2.2(c)(3) of this Ordinance and properly signed by a person described in Section 8.2.2(c)(1) or (2), or by a Duly Authorized Representative.

(b) The signatory may designate a Duly Authorized Representative provided:

(1) The authorization is made in writing by the Person described in Section 10.2.2(c)(1) or (2);

(2) The authorization specifies either the individual or a position having responsibility for the overall operation of the facility from which the industrial Discharge originates, such as the position of plant manager, operator of a well, or well field Operator or District, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(3) The written authorization is submitted to the Operator.

(c) The Operator shall be notified in writing prior to or together with any reports or information to be signed by a new signatory or authorized representative, if the signatory under Section 10.3.8(a) or authorization under Section 10.3.8(b) above is no longer accurate.

10.4 Monitoring Facilities

10.4.1 Measurement of SIU Industrial Waste Flow

Any Significant Industrial User who is discharging Industrial Waste to the WTF shall provide to the Operator independent access and the means and facilities for observing, measuring and sampling such Industrial Waste. The Operator shall have full access at all times to the SIU's monitoring facility or facilities to conduct tests on quality and quantity of Effluent. The volume or quantity of Industrial Waste discharged by any Industrial User into the WTF may be determined by one or more of the following methods:

(a) If the entire volume of water used by an SIU is purchased from the District, then the volume of water purchased from the District shall be considered to be the volume of Industrial Waste discharged;

(b) If the entire volume of water used by an SIU is purchased from the District and the volume of water used for industrial purposes is less than the volume of water purchased from the District, the SIU shall either install and maintain a meter on the Industrial Waste line; or use another method approved by the Operator to determine the volume of Industrial Waste discharged; or

(c) If any SIU now discharging or proposing to discharge Industrial Waste to the WTF and does not purchase its entire water supply from the District, then the volume or quantity of Industrial Wastes discharged by an SIU shall be determined as follows:

(1) The SIU shall install and maintain a meter or meters on all private water supply lines. The volume of Industrial Waste discharged shall be considered the sum of the volume of water purchased from the District and the volume of water metered from the private water supply; or

(2) The SIU shall install and maintain a meter on the Industrial Waste line to determine the volume of Industrial Waste discharged.

#### 10.4.2 Measurement of Other Non-residential Flow

If any other non-residential User now discharging or proposing to discharge to the WTF and does not purchase its entire water supply from the District, then the volume or

quantity of Wastewater discharged by the non-residential User may be determined by one of the methods listed in Section 10.4.1.

#### 10.4.3 Location of Monitoring Facilities

The Operator may require an Industrial User to provide and operate, at its own expense, monitoring facilities to allow inspection, sampling and flow measurement of the User's Industrial Waste. The monitoring facility shall be located on the Industrial User's premises unless the Operator determines that such a location would be impractical for purposes of providing independent and unscheduled monitoring activities or causes undue hardship on the Industrial User. In such cases, with the Operator's approval, the monitoring facility may be constructed in the public right-of-way or easement, in an unobstructed location. The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples for analysis. The Industrial User shall maintain its monitoring facilities and sampling and measuring equipment in safe and proper operating condition. Whether constructed on public or private property, the monitoring facilities shall be provided in accordance with the Operator's requirements and all applicable local construction standards and specifications. Such facilities shall be constructed and maintained in a manner to enable the Operator to perform independent monitoring activities.

#### 10.5 Accessibility, Permitting, and Inspection and Sampling

##### 10.5.1 Inspection

(a) Any permits required under this Sewer Use Ordinance shall be furnished only after the completion of the appropriate application form to be provided by the District. The application forms furnished by the District will set forth the requirements necessary for obtaining the applicable permit, including the information to be provided by the applicant and any applicable application fee.

(b) The Operator may inspect the facilities of any User to ascertain whether the User is complying with the provisions and requirements of this Ordinance. The Operator shall

perform a minimum of one scheduled and one unscheduled inspection each calendar year at each SIU.

(c) Upon request by the Operator, Users shall allow the Operator and the Approval Authority access to all parts of the premises within a reasonable time frame as determined by the Operator for the purpose of ensuring compliance with this Ordinance. The Operator and the Approval Authority shall have the right to enter onto a User's property to set up such devices as are necessary to sample, inspect, monitor or meter operations of the User to determine compliance with this Ordinance. Where a User has security measures in force which would require proper identification and clearance before entry onto its property, the User shall make necessary arrangements so that upon presentation of suitable identification, the Operator and the Approval Authority shall be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(d) Unreasonable delays in allowing the Operator and the Approval Authority access to the User's premises shall be a violation of this Ordinance.

(e) The District shall have the power reject Wastewater and discontinue services to a User who refuses to allow a duly authorized employee or agent of the District, or an Inspector, bearing proper credentials and identification to enter upon properties for the purpose of inspection, observation, measurement, sampling, and testing pertinent and necessary to carry out the provisions of this Sewer Use Ordinance and other ordinances, Rules and Regulations, or other requirements of the District.

#### 10.5.2 Search Warrants

The Operator may obtain a search warrant from a court of competent jurisdiction when the Operator has been refused access to a building, structure, property, or any part thereof. The Operator must be able to demonstrate that a User is violating any provision of this Ordinance or as part of a routine inspection and sampling program, needs to inspect or sample to verify compliance with this Ordinance or to protect the overall

public health, safety and welfare of the community.

11. Confidential Information

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

12. Publication of Users in Significant Noncompliance

The Operator or District shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by WTF, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users or any other Industrial User that violates paragraphs 12.1, 12.2, or 12.3 of this Section and shall mean:

- 12.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant

parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;

12.2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

12.3 Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Operator or District determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of WTF personnel or the general public;

12.4 Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in Operator or District exercise of its emergency authority to halt or prevent such a discharge;

12.5. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

12.6 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;

12.7 Failure to accurately report noncompliance; or

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

13. Administrative Enforcement Remedies

13.1 Notification of Violation

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

13.2 Consent Orders

The Operator or District may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 13.4 and 13.5 of this ordinance and shall be judicially enforceable.

13.3 Show Cause Hearing

The Operator or District may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Operator or District 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 fourteen (14) 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.

13.4 Compliance Orders

When the Operator or District finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Operator or District 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.

13.5 Cease and Desist Orders

When the Operator or District finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general

permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Operator or District may issue an order to the User directing it to cease and desist all such violations and directing the User to:

13.5.1 Immediately comply with all requirements; and

13.5.2 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.

### 13.6 Administrative Fines

13.6.1 When the Operator or District finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Operator or District may fine such User in an amount not to exceed **\$2500.00**. 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.

13.6.2 Users desiring to dispute such fines must file a written request for the Operator or District to reconsider the fine along with full payment of the fine amount within ten (10) days of being notified of the fine. Where a request has merit, the Operator or District 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 Operator or District may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

13.6.3 Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

### 13.7 Emergency Suspensions

The Operator or District 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 Operator or District may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the WTF, or which presents, or may present, an endangerment to the environment.

13.7.1 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 Operator or District may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WTF its receiving stream, or endangerment to any individuals. The Operator or District may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Operator or District that the period of endangerment has passed, unless the termination proceedings in Section 13.8 of this ordinance are initiated against the User.

13.7.2 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 Operator or District prior to the date of any show cause or termination hearing under Sections 13.3 or 13.8 of this ordinance.

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

### 13.8 Termination of Discharge

In addition to the provisions in Section 10.2.3 of this ordinance, any User who violates the following conditions is subject to discharge termination:

13.8.1 Violation of individual wastewater discharge permit or general permit

conditions;

13.8.2 Failure to accurately report the wastewater constituents and characteristics of its discharge;

13.8.3 Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

13.8.4 Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or

13.8.5 Violation of the Pretreatment Standards in Section 3 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 13.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Operator or District shall not be a bar to, or a prerequisite for, taking any other action against the User.

#### 14. Judicial Enforcement Remedies

##### 14.1 Injunctive Relief

When the Operator or District finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Operator or District may petition the St. Joseph County Circuit Court through the District's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, the general permit, order, or other requirement imposed by this ordinance on activities of the User. The Operator or District 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.

##### 14.2 Civil Penalties

14.2.1 A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any

other Pretreatment Standard or Requirement shall be liable to the District for a maximum civil penalty of **\$2500.00** 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.

14.2.2 The Operator or District 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 District.

14.2.3 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.

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

#### 14.3 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Operator 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 District's enforcement response plan. However, Operator or District may take other action against any User when the circumstances warrant. Further, the Operator or District is empowered to take more than one enforcement action against any noncompliant User

#### 15. Supplemental Enforcement Action

##### 15.1 Penalties for Late Reports

A penalty of **\$100.00** shall be assessed to any User for each day that a report required by this ordinance, a permit or order issued hereunder is late, beginning ten (10) days after the date the report is due. Actions taken by the Operator or District to collect late reporting penalties shall not limit the Operator or District's authority to initiate other enforcement actions that may include penalties for late reporting violations.

### 15.2 Performance Bonds

The Operator or District may decline to issue or reissue an individual wastewater discharge permit or a general permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the District, in a sum not to exceed a value determined by the Operator or District to be necessary to achieve consistent compliance.

### 15.3 Liability Insurance

The Operator or District may decline to issue or reissue an individual wastewater discharge [or a general permit to any User who has failed to comply with any provision of this ordinance, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the WTF caused by its discharge.

### 15.4 Payment of Outstanding Fees and Penalties

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

### 15.5 Public Nuisances

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

## 16. Pretreatment Charges and Fees

The District may adopt reasonable fees for reimbursement of costs of setting up and operating the Districts 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 and certification statements submitted by Users. All Users shall incur a minimum fee of two hundred dollars (\$200.00) for sample collection activities performed by District personnel;
- c) Fees for reviewing and responding to accidental discharge procedures and construction;
- d) Fees for filing appeals;
- e) Fees to recover administrative and legal costs (not included in the above Subsection (b) associated with the enforcement activity taken by the Director to address noncompliance; and
- f) Other fees as the District 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 District.

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

17. Emergency Response Cooperation Requirements

- a) All users shall, if requested, cooperate during emergencies where the District may need to repair, or protect from permanent damage, the Districts sewage works. Such cooperation may include:
  - 1. Immediately cease discharge of wastes upon notice by the District.
  - 2. Take corrective action or make an immediate repair.
  - 3. Allow access to the user's private system and property by the District or District Representatives or Contractors to conduct an emergency repair or bypass.
  - 4. Provide all information upon request, relative to materials deemed to be hazardous to the District sewage works emanating from the users site.
  - 5. Removal or relocation of physical barriers such as gates, stored materials,

vehicles, downed lines, storm debris, and any other items that may impede an emergency response by the District Representatives or Contractors.

b) All users shall in times of emergency or natural disaster notify District officials or the District's Emergency Coordinator of damage to the users private system or the Districts sewage works immediately upon discovery of such damage, including:

1. Downed lines or damaged power supply.
2. Explosion or fire on the user's site or within the District's sewage works.
3. Flooded areas that affect the user's connection to the District sewage works.
4. Power outages that may impact the operation of the user's pre-treatment systems.
5. Chemical fire or spills that could enter the sewage works thru the user's private connection or adjacent District sewage works.
6. Tornado or earthquake damage to above or below ground private connection systems or adjacent District sewage works.

c) The District's Enforcement Response Plan is included herein as Appendix "A".

18. Miscellaneous

a) Discharger's Request for Interpretation. In an effort to assure fuller understanding of and compliance with the goals and objectives of this Sewer Use Ordinance, any interested party may request, in writing from the District, an interpretation or ruling on any matter covered by this Sewer Use Ordinance.

b) Severability. If any provision, paragraph, word, section, or article of this Sewer Use Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

c) Conflict. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Sewer Use Ordinance are hereby repealed to the extent of such inconsistency or conflict.

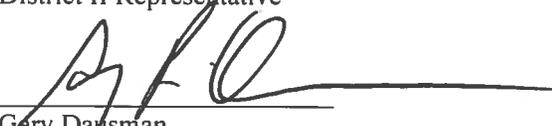
d) Ordinance in Force. This Sewer Use Ordinance shall be in full force and effect from and after its passage, according to law.

e) Governing Effect. This Sewer Use Ordinance shall be governed by and construed in accordance with the provisions of Indiana Code 14-33 concerning the Regional Water and Sewer Districts.

ORDAINED AND ADOPTED this 12 day of July, 2018.

NEW PARIS CONSERVANCY DISTRICT  
BOARD OF DIRECTORS

By:   
Gary Brumbaugh  
Chairman, Board of Directors  
District II Representative

By:   
Gary Dainsman  
Vice Chairman, Board of Directors  
District IV Representative

By:   
Rick Frye  
President, Board of Finance  
District V Representative

By: \_\_\_\_\_  
Tony Neff  
District I Representative

By:   
Rod Waldron  
District III Representative

# **APPENDIX “A”**

*Consisting of the following 13 pages)*

**RESOLUTION NO. 16-1**  
**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE**  
**NEW PARIS CONSERVANCY DISTRICT**  
**IMPLEMENTING AN ENFORCEMENT RESPONSE PLAN**  
**FOR RESPONDING TO INDUSTRIAL PRETREATMENT VIOLATIONS**

**WHEREAS**, the Code of Federal Regulations (CFR) Section 403.8f(5) and part III.C.6. of the New Paris Conservancy District NPDES permit requires NPCD to develop an Enforcement Response Plan (ERP) and to submit the ERP to IDEM within 90 days of the effective date of the permit; and,

**WHEREAS**, an ERP shall provide a protocol for responding to industrial pretreatment violations consistently and systematically; and

**WHEREAS**, an ERP also notifies industries of how the New Paris Conservancy District will respond to pretreatment violations; and

**WHEREAS**, a comprehensive and effective ERP must include:

1. A description of how NPCD will investigate instances of noncompliance.
2. Describe the types of escalating enforcement actions that NPCD will take in response to all anticipated types of industrial user violations.
3. Identify the officials responsible for each type of action.
4. Adequately reflect the NPCD primary responsibility to enforce all applicable pretreatment requirements and standards.

**WHEREAS**, the ERP is part of the pretreatment program and coordinates with the NPCD Sewer Use Ordinance but is not part of the Sewer Use Ordinance; and

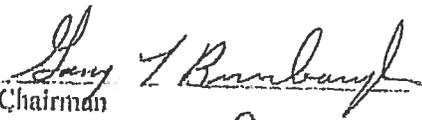
**WHEREAS**, all entities discharging non-domestic wastewater to the POTW shall be subject to the provisions of the ERP.

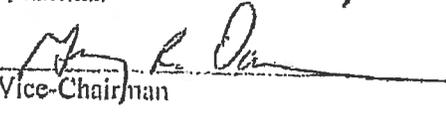
THEREFORE, it is hereby resolved by the Governing Board of the New Paris Conservancy District that there should be and hereby is adopted and established an Enforcement Response Plan as further delineated as follows:

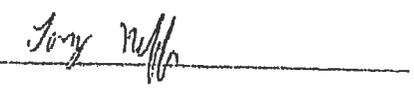
The New Paris Conservancy District Enforcement Response Plan (ERP) is attached hereto and made a part of this Resolution as an Appendix as follows:

ABBREVIATIONS	A-1
PERSONNEL RESPONSIBILITIES	A-1
DESCRIPTION OF ENFORCEMENT ACTIONS	A-1
ENFORCEMENT RESPONSE GUIDE	A-4
DEFINITIONS OF VIOLATIONS	A-5
ENFORCEMENT RESPONSE GUIDE TABLE	A-7

ALL of which having been affirmatively resolved by the Governing Board of the New Paris Conservancy District this 11<sup>th</sup> day of February, 2016.

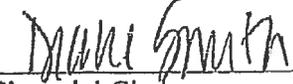
  
Chairman

  
Vice-Chairman



\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ATTEST:

  
Financial Clerk

## ABBREVIATIONS

AO – ADMINISTRATIVE ORDER  
EPA – ENVIRONMENTAL PROTECTION AGENCY  
ERG – ENFORCEMENT RESPONSE GUIDE  
ERP – ENFORCEMENT RESPONSE PLAN  
IDEM – INDIANA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT  
IU – INDUSTRIAL USER  
IPC – INDUSTRIAL PRETREATMENT COORDINATOR  
NOV – NOTICE OF VIOLATION  
POTW – PUBLICLY OWNED TREATMENT WORKS

## PERSONNEL RESPONSIBILITIES

**Industrial Pretreatment Coordinator** - The Industrial Pretreatment Coordinator (IPC) is responsible for the day to day implementation and enforcement of the industrial pretreatment program. Potential enforcement responses carried out by the IPC are as follows:

- informal notices (verbal and written)
- notices of violation
- referrals to the state or EPA for criminal action

**Superintendent** - The Superintendent has the responsibility to monitor the IPC's actions and to initiate these additional enforcement actions at the recommendation of the IPC:

- administrative fines
- administrative orders, including: compliance orders, consent orders, show cause hearings and cease and desist orders
- emergency suspension
- termination of service
- cost recovery
- referrals to the city attorney for judicial action
- referrals to the state or EPA for criminal action

**POTW Attorney** - The POTW Attorney will provide legal consultation as requested by the Superintendent on administrative fines, administrative orders and cost recovery and will take the lead on all referrals for judicial action and POTW initiated criminal investigations.

## DESCRIPTION OF ENFORCEMENT ACTIONS

Following are the types of Enforcement Action that may be undertaken by the POTW:

- **Informal Notice** - An informal notice may be either a documented phone call, written warning, or a meeting notifying the IU of minor incidences that have occurred and that need to be corrected. Repeat performance of the same incidence, or escalation of the incidence will result in escalated enforcement action.
- **Notice of Violation (NOV)** - A NOV is the initial formal enforcement action for a violation. The certified letter notifies the IU signatory authority of the violation and requires the following:
  1. Immediate corrective action or steps being taken to correct the problem;
  2. Increased sampling of the parameter in violation within thirty (30) days;
  3. Written response within ten business days of receipt of NOV.

- **Administrative Fines** - An administrative fine is a punitive monetary charge assessed by the POTW rather than a court, for an IU who is found to have violated any provision of the sewer use ordinance, or permits and orders. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. The purpose of the fine is to recover the economic benefit of noncompliance and to deter future violations. When assessing an administrative fine the following factors are considered:
  1. Type and severity of the violation;
  2. Number of violations cited;
  3. Duration of noncompliance;
  4. Impact of the violation on the receiving water, sludge quality, and POTW operation;
  5. Whether the violation threatened public health;
  6. The economic benefit or savings the industrial user gained from the noncompliance;
  7. Compliance history of the industrial user; and
  8. Whether the industrial user is making a good faith effort to comply
  
- **Administrative Order (AO)** - An Administrative Order is notification to the IU to undertake or to cease specified activities by a specified deadline. It is the first formal response to significant noncompliance (unless factors necessitate escalated enforcement actions). It may contain administrative fines, consent orders, compliance orders, show cause hearings, termination of service. In addition, it specifies the name of the parties involved, statement of the facts, the requirement to ensure compliance and the enforcement associated with any future non-compliance. Below are different types of Administrative Orders:
  - **Consent Orders** - A consent Order is an agreement with an IU responsible for noncompliance. Such documents shall include specific actions to be taken by the IU to correct the noncompliance within a time period specified by the document.
  
  - **Show Cause Hearing** - A Show Cause Hearing is when the IU and the POTW meet to discuss the cause and effect of the violation, as well as the enforcement action the IU will be subjected to. The IU may present its case as to why the violation occurred and why further enforcement should not be applied. Corrective actions to be undertaken by the IU can also be a part of this meeting.
  
  - **Compliance Orders** - A Compliance Order is a formal time and management schedule contained in an enforcement order, established for the non-compliant IU to achieve compliance. It is established for existing IUs to meet the categorical pretreatment standards or local standards. It contains increments of progress in the form of dates for the commencement and completion of major events leading to compliance. In addition, all compliance orders shall contain the following:
    1. Monitoring requirements with the location for monitoring;
    2. How the data will be used for evaluating compliance;
    3. Enforcement associated with non-compliance;
    4. Closure date after which IU will be considered either non-compliant with the established compliance order, or evaluated for compliance.
  
  - **Cease and Desist Orders** - The POTW may issue an order to an IU that has violated, or continues to violate, any provision of the sewer use ordinance, an individual wastewater discharge permit, order, or any other pretreatment standard or requirement, or that the IU's past violations are likely to recur, directing it to cease and desist all such violations and directing the IU 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.

- **Emergency Suspensions** – The POTW may immediately suspend an IU's discharge, after informal notice to the IU, 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 Superintendent] 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 Superintendent] 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 Superintendent] may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of [the Superintendent] 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 Superintendent] prior to the date of any show cause or termination

- **Termination of Service** - Termination of service is the revocation of an IU's privilege to discharge non-domestic wastewater into the sewer system. Termination of service is used when the discharge from an industrial user presents imminent endangerment to the health or welfare of persons, or the environment; or threatens to interfere with the POTW's operations; or as an escalating enforcement action to a significant violation when a noncompliant industrial user fails to respond adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the IU's connection to the collection system, issuance of an AO (cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the IUs discharge permit, or a court ruling.
- **Cost Recovery** - In addition to administrative fines imposed by the Superintendent, the IU shall be responsible for paying the following (but not limited to) costs incurred by the New Paris Conservancy District for the IU's failure to comply:
  1. Cost of mileage and labor incurred in detecting and correcting the violation;
  2. Laboratory analysis costs associated with detecting and correcting the violation;
  3. Additional treatment costs caused by the violation or associated with detecting and correcting the violation;
  4. Costs of any additional equipment acquired or expended by New Paris Conservancy District for detecting or correcting the violation;
  5. Repair and/or replacement of any part of the sewerage system damaged by the violation;
  6. Any liability, damages, fines or penalties incurred by New Paris Conservancy District as a result of the violation;
  7. Any and all expenses of outside professionals to include, but not limited to, engineers, scientists, and/or legal counsel;
  8. Other costs associated with the detection and correction of the violations.

- **Judicial Action** - Judicial Action will be taken when it is deemed necessary to force the IU to correct the violation and comply with the permit. Judicial action may consist of civil prosecution; criminal prosecution; or an action for injunction, at the discretion of the POTW and its counsel. As an alternative to judicial action, the POTW and IU may agree to a voluntary zero discharge of industrial waste by the IU pending correction of the violation.
- **Referral to EPA or the State** - Where a POTW does not rely on criminal prosecution for its enforcement authority, referral to the State or EPA may be made. For violations that may warrant criminal prosecution, the POTW will refer the case to EPA or the State for further action. Circumstances that trigger EPA or State referrals include (but not limited too) evidence of willfulness, evidence of negligence, and/or bad faith shown by the Industrial User.

Violations that threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.

### **ENFORCEMENT RESPONSE GUIDE**

The Enforcement Response Guide (ERG) designates several enforcement options for each type (or pattern) of noncompliance. The intent of the ERG is to provide direction for appropriate enforcement response and to ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response are as follows:

- compliance history of the IU
- previous success of any prior enforcement actions against the IU (e.g. If historically NOVs have not been effective in returning the user to compliance in a reasonable period of time, an administrative order would be a more appropriate response.)
- violations effect on the environment and/or public health
- violations effect on the POTW

**Violations Resulting in Significant Noncompliance** – Any violation that results in Significant Noncompliance (SNC) will be addressed through formal enforcement action regardless of the enforcement response otherwise required by the enforcement response guide. The minimum level of enforcement used to address SNC is an AO.

The following categories of SNC of IUs shall be subject to enforcement actions initiated by the New Paris Conservancy District:

- (1) Chronic violations of wastewater discharge limits, defined as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed, by any magnitude, a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l).
- (2) Technical review criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC equals one and four-tenths (1.4) for biochemical oxygen demand, total suspended solids, fats, oil, and grease and one and two-tenths (1.2) for all other pollutants except pH).
- (3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.

- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 327 IAC 5-19-3(1)(G) to halt or prevent such a discharge.
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or administrative order for starting construction, completing construction, or attaining final compliance.
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as:
  - (A) baseline monitoring reports;
  - (B) ninety (90) day compliance reports;
  - (C) periodic self-monitoring reports; and
  - (D) reports on compliance with compliance schedules.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation or group of violations (which may include a violation of best management practices) that the POTW determines will adversely affect the operation or implementation of the approved POTW pretreatment program.

**Escalating Enforcement Response** – Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same type of violation occurs on consecutive reporting periods, the violation occurs seasonally, or any other pattern of noncompliance is shown.

**Violations Falling Under More Than One Category** – Violations that fall under more than one category in the enforcement response guide will be addressed through the more severe enforcement response. All alleged violations will be included in the more severe response.

## DEFINITIONS OF VIOLATIONS

### Minor Sampling, Monitoring, or Reporting Deficiencies -

- Reports/Correspondence submitted up to 10 business days late
- Incomplete reports and/or chain-of-custody - first offense
- Transcription error
- Improper sampling or analytical procedure - first offense
- Late notification of violation to POTW - first offense
- Failure to report any operational changes which affects the discharge flow rate but does not impact the permit - first offense
- Any other violation categorized as minor sampling, monitoring or reporting deficiencies by the POTW.

### Major Sampling, Monitoring, or Reporting Deficiencies -

- Reports/Correspondence late by 10-30 business days
- Sampling point not accessible to the POTW
- Reports not certified
- Failure to report any operational changes which affects the discharge flow rate and impacts the permit
- Incomplete report or chain-of-custody information - repeat offense
- Failure to submit all the information that leads to the determination of a category of an IU
- Failure to use appropriate analytical methods (40 CFR 136)
- Failure to sample for a parameter
- Failure to report slug load discharge, illegal discharges or spills with no damage to POTW
- Unacceptable explanation for violation
- Improper sampling or analytical procedure - repeat offense
- Any other violation categorized as "Major sampling, monitoring or reporting deficiencies" by the POTW

### **Critical Sampling, Monitoring, or Reporting Deficiencies -**

- Reports greater than thirty (30) days late (SNC)
- Complete failure to sample, monitor, or report per the requirements found in the IUs permit.
- Any deficiency of sampling, monitoring, or reporting procedure which places IU in SNC
- Failure to respond to a Show Cause or Administrative Order
- Illegal or unauthorized discharge that results in damage to the POTW
- Any violation of sampling, monitoring, or reporting procedures which directly or indirectly contributes to or is responsible for violation of POTW's NPDES Permit.
- Any other violation categorized as critical sampling, monitoring or reporting deficiencies by the POTW

**Unauthorized Discharge** - Discharge of any pollutant(s) from a location, process, source or categorical operation that has not been previously approved, identified or permitted.

**Damages to the POTW** - Occurs when the discharge from an IU causes:

- Harm to the collection system, its accessories and wastewater treatment plant
- Interference with the biological operations of the plant
- Deterioration of sludge quality
- The POTW to violate its NPDES permit

### **TIMEFRAMES FOR ENFORCEMENT RESPONSES**

- All violations will be identified and documented within five (5) days of receiving compliance information.
- Initial enforcement responses (informal or formal) will occur within fifteen (15) days of identifying a violation.
- Follow up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response.
- Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate response such as halting the discharge or terminating service.
- All violations meeting the criteria for significant noncompliance will be addressed through formal enforcement action within thirty (30) days of the identification of SNC.

## ENFORCEMENT RESPONSE GUIDE TABLE

### A. Discharge Parameter Violation

Violation	Nature or Frequency of Violation	Status	Range of Responses
Exceedance of discharge limits.	Isolated, non-significant.	Non-compliance	NOV
	Frequent, repeat offense, non-significant (ex: exceeding one/quarter or four/calendar year).	Non-compliance	I. NOV with increased sampling frequency II. Administrative fine
	Exceedance of TRC value by a frequency of 33% or more in six month and/or exceedance of permit limit by a frequency of 66% or more in six month span or as stated in 40 CFR 403.	Significant non-compliance	I. NOV/AO II. Administrative fine III. Cost recovery IV. Judicial action/ terminate services.
	Any instance with POTW damage or direct cause for violation of POTW's NPDES permit - SNC.	Significant non-compliance	I. NOV/AO II. Administrative fine III. Cost recovery IV. Judicial action/ terminate services.
Waste stream dilution in lieu of treatment as described in the SUO for Industrial Waste Discharge	Isolated, non-significant.	Non-compliance	I. Informal notice II. NOV
	Frequent, repeat offense, non-significant (exceeding one/quarter or four/calendar year).	Non-compliance	I. NOV II. AO
Slug load discharge	Isolated- with no damage to POTW.	Non-compliance	NOV
	Frequent - more than one/calendar year with no damage to POTW.	Significant non-compliance	AO and upgrading slug discharge control plan
	Any instance with POTW damage or direct cause for violation of POTW's NPDES permit - SNC.	Significant non-compliance	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/ terminate services.

Violation	Nature or Frequency of Violation	Status	Range of Responses
Unauthorized/non-permitted discharge	Any instance with no damage to POTW.	Non-compliance	NOV
	Any instance with POTW damage or direct cause for violation of POTW's NPDES permit - SNC.	Significant non-compliance	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/ terminate services.
Illegal/RCRA hazardous waste discharge	Any instance.	Significant non-compliance	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/ terminate services.

**B. Sampling, Monitoring and Reporting Violations**

<b>Violation</b>	<b>Nature or Frequency of Violation</b>	<b>Status</b>	<b>Range of Responses</b>
Minor sampling, monitoring, or reporting deficiencies	Isolated or infrequent.	Non-compliance	I. Informal notice II. NOV
	Frequent, repeat offense, non-significant (exceeding one/quarter or four/calendar year).	Non-compliance	NOV
Major sampling, monitoring, or reporting deficiencies	Isolated or infrequent.	Non-compliance	I. NOV II. NOV with increased sampling frequency
	Frequent, repeat offense (exceeding one/quarter or four/calendar year).	Non-compliance	I. NOV with increased sampling frequency II. AO
Critical sampling, monitoring, or reporting deficiencies	Any instance.	Significant non-compliance	I. AO II. Administrative fine III. Judicial action IV. Terminate services
Falsification of sampling, monitoring, or reporting requirements	Any instance.	Significant non-compliance	I. Administrative fine II. Judicial action – criminal prosecution III. Terminate services
Failure to report changed discharge	Any instance with no impact on the permit.	Non-compliance	Informal notice
	Any instance with impact on the permit.	Non-compliance	NOV with show cause
Failure to obtain permit before discharge	Any instance.	Non-compliance	<del>NOV with show cause</del>
Failure to inform POTW of the ownership change	Any instance.	Non-compliance	NOV
Failure to install monitoring equipment including a monitoring manhole as required	Any instance.	Non-compliance	NOV with the requirement to immediately initiate the installation of equipment
Tampering with monitoring equipment	Any Instance.	Significant non-compliance	I. AO with fines II. Judicial action

**C. Other Types of Violations**

<b>Violation</b>	<b>Nature or Frequency of Violation</b>	<b>Status</b>	<b>Range of Responses</b>
Entry denial	Entry denied or consent withdrawn. Copies of records denied.	Non-compliance	Obtain search warrant and return to IU.
Inadequate record keeping	Incomplete or missing records.	Non-compliance	I. Informal Notice II. NOV
	Repeat offense.	Non-compliance	I. NOV II. AO with fine
Failure to properly operate and maintain pretreatment facility	Any instance.	Non-compliance	I. Informal notice II. NOV III. AO and immediate corrective action

**D. Compliance Schedule Violation**

<b>Violation</b>	<b>Nature or Frequency of Violation</b>	<b>Status</b>	<b>Range of Responses</b>
Missed milestone date	Will not affect other milestone dates on compliance schedule. No valid cause for missing the deadline.	Non-compliance	I. Informal notice II. NOV
	Will disrupt compliance schedule timetable - Violation for valid cause.	Non-compliance	I. NOV with show cause hearing II. AO to re-establish timetable
	Will disrupt compliance schedule timetable - Violation <u>not</u> for valid cause.	Significant non-compliance	I. AO with fines II. Re-establish the compliance schedule
Missed final date of achieving compliance for which the schedule was established - the parameter was in violation at least once	Violation after milestone final date due to strike, act of God, national crises, etc.	Non-compliance	I. Informal response II. AO to re-establish timetable
	Sampling or monitoring within thirty days of milestone final date yielded more than one violation for the compliance schedule parameter.	Significant non-compliance	NOV with show cause
	Sampling or monitoring after thirty days and before the closure date yielded more than one violation for the compliance schedule parameter.	Significant non-compliance	I. AO with fines II. Show cause III. Administrative fine/cost recovery IV. Judicial Action/ zero discharge V. Terminate services
Failure to meet reporting requirements	Did not submit report but did complete milestone.	Non-compliance	NOV
	Did not submit report, did not complete milestone.	Significant non-compliance	AO with fine.
Reporting false information	Any instance.	Significant non-compliance	I. Terminate services II. Judicial action/ criminal prosecution