

ORDINANCE NO. 6056

**AN ORDINANCE REPEALING 5746 AND 5434 AS AMENDED
AND ENACTING THE NEW WASTEWATER UTILITY USE ORDINANCE**

WHEREAS, the Federal Water Pollution Control Act, also known as the Clean Water Act ("Act"), and its implementing regulations, regulates the direct discharge of pollutants into surface waters from state and locally owned and operated wastewater treatment facilities;

WHEREAS, the Act requires local governments who own and operate a wastewater treatment facility to obtain a National Pollutant Discharge Elimination System ("NPDES") Permit from the United States Environmental Protection Agency ("EPA") or applicable state agency authorized by the Act to issue such permits before discharging pollutants into local rivers, streams, or other surface waters;

WHEREAS, the NPDES Permit imposes certain standard conditions on the permittee, which include, but are not limited to: a duty to comply with all permit conditions, reapply for and obtain a new permit when it expires and mitigate against any discharge in violation of the permit; a duty to operate and properly maintain all facilities and systems of treatment and control which are used or installed by the permittee to comply with permit conditions; a duty to provide information and allow inspections of its records, facilities, equipment or operation and sample or monitor for regulated substances or parameters; a duty to self-monitor the discharge from its facilities and maintain self-monitoring records for three years following the date of the sample, measurement, report or application in question; and a duty to meet certain reporting requirements described in the permit;

WHEREAS, Title 36, Article 9, Chapter 2, Section 17 of the Indiana Code authorizes the City of Elkhart, Indiana ("City") to collect, process, and dispose of waste substances and domestic or sanitary wastewater, and to establish, maintain, and operate sewers, wastewater disposal systems, and systems to collect and dispose of waste substances;

WHEREAS, the City owns and operates its own sewer system and wastewater treatment facility known as the Public Owned Treatment Works ("POTW"), and maintains and administers a pretreatment program pursuant to Title 36, Article 9, Chapter 2, Section 17 of the Indiana Code, its NPDES Permit, and Ordinance Nos. 5746 and 5434; and

WHEREAS, the City has obtained the tentative approval of the EPA to repeal Ordinance No. 5746 and replace it with this Ordinance.

**NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE
CITY OF ELKHART, INDIANA, THAT;**

Ordinance Number 5746 and 5434 shall be repealed and replaced with the Wastewater Utility Use Ordinance of the City of Elkhart, Indiana and the following words, phrases and numbers pending final approval by the EPA.

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Section 1 - General Provisions

1.1 Short Title

This Ordinance shall be known as the "Wastewater Utility Use Ordinance" and may be cited as such.

1.2 Definitions

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

- (a) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- (b) Authorized Representative.
 - (1) If the User is a corporation:
 - (i) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other Person who performs similar policy or decision making functions for the corporation; or
 - (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 Industrial Wastewater Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs (1) through (3), above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for

environmental matters for the company, and the written authorization is submitted to the City.

- (c) Best Management Practices. The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement a course of action to avoid the prohibitions listed in Section 2.6. Best Management Practices 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.
- (d) Board. The Board of Public Works of the City of Elkhart, Indiana. It is the governing body of the Publicly Owned Treatment Works and acts as the control authority as defined in 40 CFR 403.3(f).
- (e) Bypass. The intentional diversion of wastestreams from any portion of a User's treatment facility or process.
- (f) Carbonaceous Biochemical Oxygen Demand. The quantity of oxygen utilized in the biochemical oxidation of carbonaceous organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration.
- (g) Categorical Pretreatment Standard. Any regulation containing Pollutant Discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (h) Categorical Industrial User. An Industrial User subject to a Categorical Pretreatment Standard.
- (i) City. The City of Elkhart, Indiana.
- (j) Chemical Oxygen Demand. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- (k) Combined Sewer. A Sewer designed and constructed to convey Wastewater and water from any form of precipitation through a single pipe system to the POTW Treatment Plant.
- (l) Customary Batch Discharge. Any Industrial Discharge of a routine, episodic nature from a receptacle, including, but not limited to, tanks, vats, drums, and buckets, that is described in the User's Industrial Wastewater Discharge Permit and is in compliance with this ordinance.
- (m) Daily Maximum Limit. The maximum allowable Discharge limit of a Pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily Discharge is the total mass Discharged over the course of the day. Where Daily

Maximum Limits are expressed in terms of a concentration, the daily Discharge is the arithmetic average measurement of the Pollutant concentration derived from all measurements taken that day.

- (n) Damage to the POTW. Any type of harm including, but not limited to, weakening, destruction, blockage, tampering, defacing, degradation, Pass Through, impairment, or interference of any structure or process of the POTW including, but not limited to, pipes, tanks, pumps, biology, lift stations, manholes, grates, manholes, catch basins, monitoring, or monitoring devices.
- (o) Director. The individual responsible for supervising the operation of the POTW, or that Person's duly authorized representative.
- (p) Discharge. The introduction of Pollutants into the POTW from any source. All Industrial Discharges are also Discharges.
- (q) EPA or Environmental Protection Agency. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the EPA Region 5 Administrator, or other duly authorized official of said agency.
- (r) Existing Source. Any source of Discharge that is not a New Source.
- (s) FOG or Fats, Oils, and Grease. 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. Fats, Oils, and Greases are more specifically defined as the polar n-hexane extractable material in EPA method 1664A unless an alternative method is selected by the Director.
- (t) Grinder. Any device installed in the plumbing or Wastewater system for the purpose of grinding wastes prior to it being Discharged into the POTW.
- (u) FOG Control Device. Any grease interceptor, grease trap or other mechanism, device, or process, which attaches to, or is applied to, wastewater fixtures, lines, or processes intended to trap or collect FOG prior to it being Discharged into the POTW.
- (v) FSE or Food Service Establishment. An operation or enterprise that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. This does not include establishments designated as "Pre-Packaged Food Store Only" with a "Limited Food Service License" by the Elkhart County Health Department.
- (w) Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- (x) Industrial User. A source of Industrial Discharge.

- (y) Industrial Discharge. The introduction of Pollutants into the POTW from any nondomestic source, political subdivision operating under an inter-local agreement, or Person operating a private lift station. This includes, but is not limited to, Wastewater from, industrial facilities, commercial facilities, Food Service Establishments, correctional facilities, medical facilities, and educational or governmental facilities. Any Discharge combined with Industrial Discharge prior to the point of connection with the POTW becomes Industrial Discharge.
- (z) Instantaneous Limit. The maximum concentration of a Pollutant allowed to be Discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (aa) Interference. An Industrial Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the City's NPDES Permit or of the prevention of sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- (bb) Local Limit. Specific Industrial Discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific Discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- (cc) Medical Waste. Isolation wastes, infectious agents, blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, or any hazardous waste pharmaceutical as defined in 40 CFR Part 266 Subpart P.
- (dd) Monitoring Facilities. The pipes, covers, ladders, manholes, walkways, approaches, tanks, samplers, gas meters, Discharge meters, Pollutants meter and all other equipment, structures, and facilities used by the Industrial User or POTW to monitor Discharges from an Industrial User.
- (ee) Monthly Average Limit. The highest allowable average of daily Discharges over a calendar month, calculated as the sum of all daily Discharges measured during a calendar month divided by the number of daily Discharges measured during that month. Where only one daily Discharge is sampled during a calendar month, the measurement of that daily Discharge is the monthly average and may violate both the Monthly Average Limit and Daily Maximum Limit.

(ff) NPDES Permit or National Pollutant Discharge Elimination System Permit. A permit issued to a POTW pursuant to section 402 of the Act.

(gg) New Source.

- (1) Any building, structure, facility, or installation from which there is (or may be) an Industrial Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under section 307(c) of the Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the Industrial Discharge of Pollutants at an Existing Source; or
 - (iii) The production or Wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.
- (2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of (1)(ii) or (iii) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
 - (i) Begun, or caused to begin, as part of a continuous onsite construction program:
 - (A) Any placement, assembly, or installation of facilities or equipment;
 - (B) 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
 - (ii) 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.

- (hh) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.
- (ii) Non-Significant Categorical Industrial User. The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never Discharges more than 100 gallons per day of total categorical Wastewater (excluding sanitary, Noncontact Cooling Water and boiler blowdown Wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
 - (1) The Industrial User, prior to City's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;
 - (2) The Industrial User annually submits the certification statement required in Section 6.15 (b), together with any additional information necessary to support the certification statement; and
 - (3) The Industrial User never Discharges any untreated concentrated Wastewater.
 - (4) The Industrial User receives a Non-Significant Categorical Industrial User permit from the Board that establishes the rationale for the Industrial User being a Non-Significant Categorical Industrial User, a description of the Industrial User's process, and requirements for maintaining the Industrial User's status as a Non-Significant Categorical Industrial User, and any other information that the Director believes is necessary to maintain the safe and efficient operation of the POTW.
- (jj) Pass Through. A Discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the City's NPDES Permit, including an increase in the magnitude or duration of a violation.
- (kk) Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- (ll) pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- (mm) Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of Wastewater

(e.g., FOG, pH, temperature, Total Suspended Solids, turbidity, color, Carbonaceous Biochemical Oxygen Demand, Chemical Oxygen Demand, toxicity, or odor).

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

(oo) Pretreatment Standards. Pretreatment Standards shall mean Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.

(pp) Prohibited Discharge Standards. Absolute prohibitions against the Discharge of certain substances; these prohibitions appear in Section 2.6 of this ordinance.

(qq) POTW or Publicly Owned Treatment Works. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes the Wastewater Treatment Plant and any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Wastewater and any conveyances, which convey Wastewater to a Wastewater Treatment Plant.

(rr) Severe Property Damage. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a Bypass. Severe Property Damage does not mean economic loss caused by delays in production.

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

(tt) Sewer Lateral. The Wastewater piping that extends from a building, house, structure, or facility to the POTW or other place of disposal. Sewer Laterals are not part of the POTW.

(uu) SIU or Significant Industrial User. Except as provided in paragraphs (3) and (4) of this definition, a Significant Industrial User is:

- (1) An Industrial User subject to Categorical Pretreatment Standards except where the Industrial User is a Non-Significant Categorical Industrial User; or
- (2) An Industrial User that:
 - (i) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process Wastewater to the POTW (excluding sanitary, Noncontact Cooling Water and boiler blowdown Wastewater);

- (ii) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW Wastewater Treatment Plant; or
- (iii) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirements.

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

(vv) Significant Noncompliance. The status of an Industrial User that has caused or allowed a violation that meets one or more of the following criteria.

- (1) 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, including Instantaneous Limits as defined in this ordinance;
- (2) Technical Review Criteria 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 including Instantaneous Limits, as defined in this ordinance multiplied by the applicable criteria (1.4 for BOD, Total Suspended Solids, and 1.2 for all other Pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or requirement as defined by Section 2 that the Director 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 Director's exercise of his suspension of service authority under Section 10.7 or the Board's exercise of termination of Discharge under Section 10.8;
- (5) Failure to meet, within 90 calendar days after the schedule date, a compliance schedule milestone contained in an Industrial Wastewater Discharge Permit, or in an enforcement order for starting construction, completing construction, or attaining final compliance;

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

- (i) Baseline Monitoring Reports;
- (ii) 90-day compliance reports;
- (iii) Periodic self-monitoring reports; and
- (iv) Reports on compliance with compliance schedules.

(7) Failure to accurately report noncompliance; and

(8) Any other violation or group of violations that the Director determines will adversely affect the operation or implementation of the Pretreatment program which may include a violation of Best Management Practices.

(ww) Slug Discharge. Any Industrial Discharge at a flow rate or concentration, which could cause a violation of the Prohibited Discharge Standards in Section 2.6 of this ordinance. A Slug Discharge is any Industrial 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, contains any constituent greater or equal to 5 times the concentration of any Local Limit, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

(xx) State Pretreatment Standards. 327 IAC 5-18-8, as amended from time to time.

(yy) Surcharge. The extra charges for sewer service assessed customers whose Wastewater is of such a nature that it imposes upon the POTW a burden greater than that covered by the basic service charge.

(zz) Total Petroleum Hydrocarbons. A summation of many types of petroleum hydrocarbons measured as non-polar material (n-hexane extractable material that is not adsorbed by silica gel) using United States Environmental Protection Agency Method 1664A or another method approved by the Director.

(aaa) Total Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and that is removable by laboratory filtering.

(bbb) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with the Discharge 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.

- (ccc) User. A source of Discharge. All Industrial Users are also Users.
- (ddd) Wastewater. Liquid and water carried industrial wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (eee) Wastewater Treatment Plant. That portion of the POTW which is designed to provide treatment of Wastewater.

1.3 Abbreviations

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

- CFR – Code of Federal Regulations
- EPA – United States Environmental Protection Agency
- FOG – fats, oils, and grease
- FSE – Food Service Establishment
- mg/L – milligrams per liter
- NPDES – National Pollutant Discharge Elimination System
- POTW – Publicly Owned Treatment Works
- SIU – Significant Industrial User
- U.S.C. – United States Code

1.4 Purpose and Policy

- (a) This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Elkhart and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 U.S.C. section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the CFR Part 403). The objectives of this ordinance are:
 - (1) To prevent the introduction of Pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
 - (2) To prevent the introduction of Pollutants into the Publicly Owned Treatment Works that will Pass Through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
 - (3) To protect both Publicly Owned Treatment Works personnel who may be affected by Wastewater and sludge in the course of their employment and the general public;
 - (4) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other

Federal or State laws to which the Publicly Owned Treatment Works is subject.

- (5) Protect the physical integrity of the Publicly Owned Treatment Works (POTW);
- (6) Comply with the City's NPDES Permit conditions; and
- (7) Authorize the Board, the Director, and their duly authorized representatives, to administer and enforce this Ordinance.

(b) This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of Industrial Wastewater Discharge Permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting.

1.5 Administration

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

1.6 Bylaws and Regulations of the Board of Public Works

The Board may adopt and enforce such reasonable regulations not in conflict herewith as it deems necessary for the safe, economical and efficient management of the POTW.

1.7 Enforcement Response Plan

The Board shall adopt an Enforcement Response Plan. The Enforcement Response Plan will serve as a reference and provide recommendations to the Board to enforce this ordinance.

Section 2 - General Wastewater Utility Use Requirements

2.1 Prohibition of Certain On-Site Wastewater Disposal Systems

On-site disposal systems shall be in accordance with all local, state, and federal regulations. Existing Septic Tank systems and absorption fields may be repaired and maintained in accordance with applicable laws and ordinances.

2.2 Connection to the POTW

- (a) Any Person constructing a new building requiring Wastewater service on property that is within the corporate limits of the City and is adjacent to or across from a public right-of-way or easement in which there is access to a Public Sanitary or Combined Sewer, shall connect to said Sewer in accordance with any requirements of Federal, State, and local laws and regulations. This includes but is not limited to construction specification

and permit requirements established by the Board or Director. The Person shall not Discharge anywhere other than into the POTW.

- (b) Any Person seeking to obtain a connection to the POTW or utilize an existing connection to the POTW shall notify the Utility Billing Office to establish an account.
- (c) All Industrial Users seeking to obtain a connection to the POTW or utilize an existing connection to the POTW shall complete and submit a questionnaire. Based on the information contained in the questionnaire, the Director may require the Industrial User to apply for and obtain an Industrial Wastewater Discharge Permit.
- (d) Charges, fees, and deposits required for a new connection or to begin utilizing an existing connection shall be in accordance with the Wastewater Utility Rate Ordinance.
- (e) As a requirement for making a new connection or utilizing an existing connection, the Director may require the presentation of such documents and identification as the Directors finds necessary.
- (f) The Director shall have the right to prohibit new connections when the capacity of the POTW is deemed insufficient by the Director.
- (g) The connection, directly or indirectly, of clear water sources from new buildings to the POTW is prohibited. Clear water sources includes precipitation, groundwater, geothermal system, single pass Noncontact Cooling Water, and other related waters. Further, the Director may require present Users to disconnect existing clear water sources at the User's expense.

2.3 Prohibition of New Combined Sewer Construction

No Person shall construct any new Combined Sewers.

2.4 Sewer Laterals

- (a) All Sewer Laterals are owned, maintained, cleaned, and located by the property owner regardless of whether they are located on private or public property.
- (b) A separate and independent Sewer Lateral owned by the property owner shall be constructed for every new connection unless the Director approves an alternative Sewer Lateral.

2.5 Grinders

- (a) An Industrial User shall not install Grinders except where the Industrial User demonstrates to the satisfaction of the Director that:

- (1) The Grinder is necessary for the proper functioning of the Industrial User's Wastewater system; and
- (2) The Industrial User's Discharge will comply with this ordinances.

(b) Any Industrial User that currently has a Grinder must remove the Grinder before January 1, 2026, except where the Industrial User demonstrates to the satisfaction of the Director that:

- (1) The Grinder is necessary for the proper functioning of the Industrial User's Wastewater system; and
- (2) The Industrial User's Discharge will comply with this ordinances.

(c) All Users' Grinders are owned, maintained, cleaned, and located by the property owner regardless of whether they are located on private or public property.

2.6 Prohibited Discharge Standards

(a) General Prohibitions

- (1) No User shall introduce or cause to be introduced into the POTW any Pollutant or Wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.
- (2) No Person shall Discharge any Waste, Wastewater, Pollutant or other substance to the POTW except as authorized by the Director in accordance with the provisions of this Wastewater Utility Use Ordinance.

(b) Specific Prohibitions

No User shall introduce or cause to be introduced into the POTW the following Pollutants, substances, or Wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than one hundred forty (140) degrees F using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH less than five (5.0), or otherwise causing corrosive structural Damage to the POTW or equipment;

- (3) Wastewater having a pH more than ten (10.0) for a period exceeding thirty (30) minutes, or otherwise causing corrosive structural Damage to the POTW or equipment;
- (4) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference but in no case solids greater than one-half inch in any dimension;
- (5) Pollutants, including oxygen demanding Pollutants (Carbonaceous Biochemical Oxygen Demand, etc.), released in an Industrial Discharge at a flow rate and/or Pollutant concentration which, either singly or by interaction with other Pollutants, will cause Interference with the POTW;
- (6) Wastewater having a temperature greater than one hundred forty (140) degrees F, or which will inhibit biological activity in the Wastewater Treatment Plant resulting in Interference, but in no case Wastewater which causes the temperature at the introduction into the Wastewater Treatment Plant to exceed one hundred four (104) degrees F;
- (7) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (8) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (9) Trucked or hauled Pollutants, except at points designated by the Director in accordance with Section 3.4 of this ordinance;
- (10) Noxious or malodorous liquids, gases, solids, or other Wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (11) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the Wastewater Treatment Plant's effluent, thereby violating the City's NPDES permit;
- (12) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (13) Sludges, screenings, or other residues from the treatment of wastes;
- (14) Medical Wastes except as specifically authorized by the Board;
- (15) Wastewater causing, alone or in conjunction with other sources, the Wastewater Treatment Plant's effluent to fail toxicity test;

- (16) Detergents, surface active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Wastewater causing two readings on an explosion hazard meter at the point of Discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter;
- (18) Additives into a Wastewater system for the purpose of emulsifying or chemically treating FOG;
- (19) FOG into toilets, urinals, wash basins, and other fixtures intended for sanitary waste; and
- (20) Water from any form of precipitation, 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 Director or this ordinance.

(c) Pollutants, substances, or Wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be Discharged to the POTW.

2.7 National Categorical Pretreatment Standards

Users must comply with the Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

- (a) Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Board may impose equivalent concentration or mass limits in accordance with this Section.
- (b) When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutant per unit of production, the Director may convert limits, subject to Board approval, to equivalent limitations expressed either as mass of Pollutant Discharged per day or Discharge concentration for purposes of calculating Discharge limitations applicable to individual Industrial Users.
- (c) When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same Standard, the Board shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- (d) When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, an Industrial User may request that the Director convert, subject to Board approval, the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Board. The Board may

establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 2.7(d)(1)(i) through 2.10(d)(1)(v) below.

- (1) To be eligible for equivalent mass limits, the Industrial User must:
 - (i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its Industrial Wastewater Discharge Permit;
 - (ii) 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;
 - (iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous Discharge 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;
 - (iv) Not have daily flow rates, production levels, or Pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Industrial Discharge; and
 - (v) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
- (2) An Industrial User subject to equivalent mass limits must:
 - (i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - (ii) Continue to record the facility's flow rates through the use of a continuous Discharge flow monitoring device;
 - (iii) Continue to record the facility's production rates and notify the Director whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in Section 2.7(d)(1)(iii). Upon notification of a revised production rate, the Director will reassess the equivalent mass limit and the Board will revise the limit as necessary to reflect changed conditions at the facility; and
 - (iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to Section 2.7(d)(1)(a) so long as it Discharges under an equivalent mass limit.

(3) When developing equivalent mass limits:

- (i) The Director will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum Limit and Monthly Average Limit Standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;
- (ii) Upon notification of a revised production rate, the Director, subject to Board approval, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
- (iii) The Board may retain the same equivalent mass limit in subsequent Industrial 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 2.11. The Industrial User must also be in compliance with Section 12.3 regarding the prohibition of Bypass.

- (e) The Director, subject to Board approval, may convert the mass limits of the Categorical Pretreatment Standards of 40 CFR Parts 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 Board.
- (f) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section in lieu of the promulgated Categorical Pretreatment Standards from which the equivalent limitations were derived.
- (g) Many Categorical Pretreatment Standards specify one limit for calculating maximum daily Industrial Discharge limitations and a second limit for calculating maximum Monthly Average Limits, or four (4) day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (h) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director 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 Monthly Average Limit production rate.

2.8 State Pretreatment Standards

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

2.9 Local Limits

(a) No Industrial User shall Discharge Wastewater containing in excess of the following.

Concentration (mg/L)	Pollutant	Limit Type
2.1	Arsenic	Daily Maximum Limit
1.2	Cadmium	Daily Maximum Limit
7.0	Chromium	Daily Maximum Limit
3.2	Copper	Daily Maximum Limit
1.75	Cyanide	Instantaneous Limit
0.60	Lead	Daily Maximum Limit
0.00018	Mercury	Daily Maximum Limit
4.1	Nickel	Daily Maximum Limit
4.0	Phenol	Instantaneous Limit
200	Total Fats, Oils or Grease (FOG)	Instantaneous Limit
100	Total petroleum hydrocarbons	Instantaneous Limit
0.10	Silver	Daily Maximum Limit
4.2	Zinc	Daily Maximum Limit

(b) Local Limits apply at the point where the Industrial User connects to the POTW or at a point representative of that location. All concentrations for metallic substances are for total metal unless indicated otherwise. The Board may impose mass limitations in addition to the concentration based limitations above.

(c) The Board may develop Best Management Practices, by resolution or in Industrial Wastewater Discharge Permits, to implement Local Limits and the requirements of Section 2.6.

2.10 City's Right of Revision

The City reserves the right to establish, by ordinance or in Industrial Wastewater Discharge Permits, more stringent Standards or Requirements on Industrial Discharges to the POTW consistent with the purpose of this ordinance.

2.11 Dilution

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

applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

2.12 Duty to Mitigate - Prevention of Adverse Impact

All Industrial 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 POTW, the receiving stream or the environment.

Section 3 - Pretreatment of Wastewater

3.1 Pretreatment Facilities

Industrial Users shall provide Wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2.6 of this ordinance within the time limitations specified by EPA, the State, or the Board, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the Industrial User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the Industrial User from the responsibility of modifying such facilities as necessary to produce a Discharge acceptable to the City under the provisions of this ordinance.

3.2 Additional Pretreatment Measures

- (a) Whenever deemed necessary, the Director may require Industrial Users to restrict their Discharge during peak flow periods, designate that certain Wastewater be Discharged only into specific sewers, relocate and/or consolidate points of Discharge, separate Sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the Industrial User's compliance with the requirements of this ordinance.
- (b) The Board may require any Industrial User discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An Industrial Wastewater Discharge Permit may be issued solely for flow equalization.
- (c) Industrial Users with the potential to Discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (d) Control devices such as interceptors, separators, and traps shall be installed and maintained by the Industrial User and at the Industrial User's cost when, in the opinion of the Director, the control device is necessary to contain FOG, sand, grit, dust, or other harmful materials in the User's Wastewater or for FSEs as described in Sections 13.2. The control devices shall be:

- (1) Of a type and capacity acceptable to the Director;
- (2) Located to be easily accessible for cleaning and inspection;
- (3) Clearly labeled on the cover; and
- (4) Regularly pumped or cleaned and maintained with maintenance and disposal records maintained onsite for a minimum of three years and be available for inspection.

3.3 Accidental Discharge/Slug Discharge Control Plans

- (a) Each SIU shall provide protection from spills or Slug Discharges. All SIUs are required to have a Slug Discharge control plan and shall implement the plan and not commence discharging to the POTW until the plan has been submitted and approved by the Director. The SIU shall provide and maintain all facilities needed to implement the plan.

At a minimum, the following elements shall be part of the submitted plan:

- (1) Description of Discharge practices, including non-Customary Batch Discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Director of any accidental or Slug Discharge, as required by Section 6.7 of this ordinance; and
- (4) Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic Pollutants, including solvents, and/or measures and equipment for emergency response.

- (b) Such plan shall be revised and updated whenever operational changes affect the validity of the plan or submitted with the Industrial Wastewater Discharge Permit renewal application.

3.4 Hauled Wastewater

- (a) Hauled waste shall not be accepted except as allowed by the Director under special circumstances.

- (b) Hauled waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. Such waste shall not violate any part of this ordinance or any other requirements established by the Director.
- (c) The Director shall follow any requirements of the City's NPDES Permit when allowing hauled waste to be Discharged to the POTW.

3.5 FOG Control Devices

- (a) Wastewater connections to a FOG Control Device from sources that may interfere with the proper operation of a FOG Control Device are prohibited.
- (b) All FOG Control Devices shall be maintained to ensure that the combined depth of accumulated FOG and settled waste does not exceed twenty five percent (25%) of the operating depth of the interceptor or trap unless an alternative percent is approved by the Director. The operating depth shall be measured as the combined depth of FOG, water and settled waste in the grease interceptor or grease trap.

Section 4 - Industrial Wastewater Discharge Permit

4.1 Wastewater Nature

When requested by the Director, an Industrial User must submit information on the nature and characteristics of its Wastewater within fifteen (15) days of the request. The Director is authorized to prepare a form for this purpose and may periodically require Industrial Users to update this information.

4.2 Industrial Wastewater Discharge Permit Requirement

- (a) No SIU shall Discharge Wastewater into the POTW without first obtaining an Industrial Wastewater Discharge Permit from the Board.
- (b) The Board may require other Industrial Users to obtain Industrial Wastewater Discharge Permits as necessary to carry out the purposes of this ordinance.
- (c) Any violation of the terms and conditions of an Industrial Wastewater Discharge Permit shall be deemed a violation of this ordinance and subjects the Wastewater discharge permittee to the sanctions set out in Section 10 and Section 11 this ordinance. Obtaining an Industrial Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all requirements of Federal, State, and local laws and regulations.

4.3 Industrial Wastewater Discharge Permitting: New Connections

Any Industrial User required to obtain an Industrial Wastewater Discharge Permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning

or recommencing of such Discharge. An application for this Industrial Wastewater Discharge Permit, in accordance with Section 4.4 of this ordinance, must be filed at least one hundred eighty (180) days prior to the date upon which any Discharge will begin or recommence.

4.4 Industrial Wastewater Discharge Permit Application Contents

- (a) All Industrial Users required to obtain an Industrial Wastewater Discharge Permit must submit an Industrial Wastewater Discharge Permit application. In support of the application, each User shall be required to submit, in units and terms appropriate for evaluation, all information on a form supplied by the Director. The Director may include all or some of the following information as part of an Industrial Wastewater Discharge Permit application form:
 - (1) Identifying Information.
 - (i) The name and address of the facility, including the name of the operator and owner.
 - (ii) Contact information, description of activities, facilities, and plant production processes on the premises;
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations.
 - (i) A detailed description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of Discharge to the POTW from the regulated processes.
 - (ii) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, Discharged to the POTW;
 - (iii) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (iv) Type and amount of raw materials processed (average and maximum per day);
 - (v) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge;
 - (4) Time and duration of Discharges;

- (5) The location for monitoring all wastes covered by the permit;
- (6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.7(c).
- (7) 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, and/or mass, where required by the Standard or by the Director, of regulated Pollutants in the Discharge from each regulated process.
 - (iii) Instantaneous, Daily Maximum Limit, and long-term average concentrations, or mass, where required, shall be reported.
 - (iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.11 of this ordinance. Where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.
 - (v) Sampling must be performed in accordance with procedures set out in Section 6.12 of this ordinance.
- (8) Any other information as may be deemed necessary by the Director to evaluate the Industrial Wastewater Discharge Permit application.

(b) Incomplete or inaccurate Industrial Wastewater Discharge Permit applications will not be processed and will be returned to the User for revision.

4.5 Application Signatories and Certifications

- (a) All Industrial Wastewater Discharge Permit applications, Industrial User reports and certification statements must be signed by an Authorized Representative of the Industrial User and contain the certification statement in Section 6.15(a).
- (b) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the

Director prior to or together with any reports to be signed by an Authorized Representative.

- (c) A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 1.2(ii)(3) must annually submit the signed certification statement in Section 6.15(b).
- (d) Electronic submissions must be in compliance with Section 6.5.

4.6 Industrial Wastewater Discharge Permit Decisions

The Director will evaluate the data furnished by the User and may require additional information. Within one hundred eighty (180) days of the Director determining that a complete and acceptable Industrial Wastewater Discharge Permit application has been received, the Director will submit the Industrial Wastewater Discharge Permit to the Board. The Board shall either issue the Industrial Wastewater Discharge Permit or deny the Industrial Wastewater Discharge Permit application.

Section 5 - Industrial Wastewater Discharge Permit Issuance

5.1 Industrial Wastewater Discharge Permit Duration

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

5.2 Industrial Wastewater Discharge Permit Contents

An Industrial Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Board to prevent Pass Through or Interference, protect the quality of the water body receiving the Wastewater Treatment Plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against Damage to the POTW.

- (a) Industrial Wastewater Discharge Permit must contain:
 - (1) A statement that indicates the Wastewater discharge permit issuance date, expiration date and effective date;
 - (2) A statement that the Wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 5.5 of this ordinance; and provisions for furnishing the new owner or operator with a copy of the existing Industrial Wastewater Discharge Permit;
 - (3) Discharge limits, including Best Management Practices, based on applicable Pretreatment Standards;

- (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of Pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
- (5) 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.
- (6) Requirements to control Slug Discharge.

(b) Industrial Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of Discharge, time of Discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of Pollutants into the POTW;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of Pollutants Discharged to the POTW;
- (5) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (6) A statement that compliance with the Industrial Wastewater Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the Industrial Wastewater Discharge Permit; and
- (7) Other conditions as deemed appropriate by the Board to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

5.3 Permit Appeals

(a) Any Person, including the User, may petition the Board to reconsider the terms of an Industrial Wastewater Discharge Permit within thirty (30) days of notice of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the Industrial Wastewater Discharge Permit provision(s) objected to, the reason(s) for each objection, and the alternative condition, if any, it seeks to place in the Industrial Wastewater Discharge Permit.
- (3) The effectiveness of the Industrial Wastewater Discharge Permit shall not be stayed pending the appeal.
- (4) If Board fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an Industrial Wastewater Discharge Permit, not to issue an Industrial Wastewater Discharge Permit, or not to modify an Industrial Wastewater Discharge Permit shall be considered final administrative actions for purposes of judicial review.

(b) Aggrieved parties seeking judicial review of the final administrative Industrial Wastewater Discharge Permit decision must do so by filing a complaint with the Elkhart County Court.

5.4 Permit Modification

Board may modify an Industrial Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

- (a) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- (b) To address significant alterations or additions to the Industrial User's operation, processes, production levels, or Wastewater volume or character since the time of the Industrial Wastewater Discharge Permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized Discharge;
- (d) Information indicating that the permitted Discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the Industrial Wastewater Discharge Permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the Industrial Wastewater Discharge Permit application or in any required reporting;
- (g) Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13;

- (h) To correct typographical or other errors in the Industrial Wastewater Discharge Permit; or
- (i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

5.5 Industrial Wastewater Discharge Permit Transfer

- (a) Industrial Wastewater Discharge Permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Director and the Director approves the Industrial Wastewater Discharge Permit transfer. The notice to the Director must include a written certification by the new owner or operator which:
 - (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
 - (2) Identifies the specific date on which the transfer is to occur; and
 - (3) Acknowledges full responsibility for complying with the existing Industrial Wastewater Discharge Permit.
- (b) 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 Director shall send a copy of the current Industrial Wastewater Discharge Permit to the transferee and notify the current permittee and the transferee of the need to modify, revoke or terminate the permit. The Director may require that a new Industrial Wastewater Discharge Permit application be filed rather than agreeing to the transfer of the permit.

5.6 Industrial Wastewater Discharge Permit Revocation

- (a) The Board may revoke an Industrial Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:
 - (1) Failure to notify the Director of significant changes to the Wastewater prior to the changed Industrial Discharge;
 - (2) Failure to provide prior notification to the Director of changed conditions pursuant to Section 6.6 of this ordinance;
 - (3) Misrepresentation or failure to fully disclose all relevant facts in the Industrial Wastewater Discharge Permit application;

- (4) Falsifying self-monitoring reports and certification statements;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Director timely access to the facility premises and records;
- (7) Failure to meet Discharge limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a questionnaire or the Industrial Wastewater Discharge Permit application;
- (12) Failure to provide advance notice in accordance with Section 5.5 of the transfer of business ownership of a permitted facility; or
- (13) Violation of any Pretreatment Standard, or any terms of the Industrial Wastewater Discharge Permit or this ordinance.

(b) Industrial Wastewater Discharge Permits shall be voidable upon cessation of operations or transfer of business ownership. All Industrial Wastewater Discharge Permits issued to a User are void upon the issuance of a new Industrial Wastewater Discharge Permit to that User.

5.7 Industrial Wastewater Discharge Permit Reissuance

A User with an expiring Industrial Wastewater Discharge Permit shall apply for Industrial Wastewater Discharge Permit reissuance by submitting a complete Industrial Wastewater Discharge Permit application, in accordance with Section 4.4 of this ordinance, a minimum of one hundred eighty (180) days prior to the expiration of the User's existing Industrial Wastewater Discharge Permit.

5.8 Regulation of Waste Received from Other Jurisdictions

- (a) If another political subdivision, contributes Wastewater to the POTW, the Board shall enter into an inter-local agreement with the political subdivision.
- (b) Prior to entering into an agreement required by Section 5.8(a), the Board shall request the following information from the contributing political subdivision:
 - (1) A description of the quality and volume of Wastewater Discharged to the POTW by the contributing political subdivision;

- (2) An inventory of all Users located within the contributing political subdivision that are discharging to the POTW; and
- (3) Such other information as the Board or Director may deem necessary.

(c) An inter-local agreement, as required by Section 5.8(a) shall contain the following conditions:

- (1) A requirement for the political subdivision to adopt a Wastewater Utility Use Ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports which are at least as stringent as those set out in Section 2.9 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;
- (2) A requirement for the contributing political subdivision to submit a revised User inventory on at least an annual basis;
- (3) A provision specifying which Pretreatment implementation activities, including Industrial Wastewater Discharge Permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing political subdivision; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing political subdivision and the Director;
- (4) A requirement for the contributing political subdivision to provide the Director with access to all information that the contributing political subdivision obtains as part of its Pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing political subdivision's Wastewater at the point where it Discharges to the POTW;
- (6) Requirements for monitoring the contributing political subdivision's Discharge;
- (7) A provision ensuring the Director access to the facilities of Users located within the contributing political subdivision's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director;
- (8) A provision specifying remedies available for breach of the terms of the inter-local agreement; and
- (9) Other conditions as deemed appropriate by the Board to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

Section 6 - Reporting Requirements

6.1 Baseline Monitoring Reports

- (a) Within either one hundred eighty (180) days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to Discharge to the POTW shall submit to the Director a report which contains the information listed in Section 6.1(b). At least ninety (90) days prior to commencement of their Discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Pretreatment Standard, shall submit to the Director a report which contains the information listed in Section 6.1(b). A New Source shall report the method of Pretreatment it intends to use to meet applicable Categorical Pretreatment Standards. A New Source also shall give estimates of its anticipated flow and quantity of Pollutants to be Discharged.
- (b) Users described above shall submit the information set forth below.
 - (1) All information required in Section 4.4(a)(1), Section 4.4(a)(2), Section 4.5(a)(3)(i), and Section 4.4(a)(6).
 - (2) Measurement of Pollutants.
 - (i) The User shall provide the information required in Section 4.4(a)(7)(i) through (iv).
 - (ii) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of Section 6.2(b)(2).
 - (iii) Samples should be taken immediately downstream from Pretreatment facilities if such exist or immediately downstream from the regulated process if no Pretreatment exists. If other Wastewaters are mixed with the regulated Wastewater prior to Pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Director;
 - (iv) Sampling and analysis shall be performed in accordance with Section 6.11 and Section 6.12;
 - (v) The Director 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;

- (vi) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the PQTW.
- (3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.2(b) and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional Pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional Pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional Pretreatment and/or operation and maintenance must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this ordinance.
- (5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.15(a) of this ordinance and signed by an Authorized Representative as defined in Section 1.2(b).

6.2 Compliance Schedule Progress Reports

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

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

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

- (a) Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of Wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Director a report containing the information described in Section 4.4(a)(6) and (7) and Section 6.1(b)(2) of this ordinance.
 - (1) For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.7, this report shall contain a reasonable measure of the User's long term production rate.
 - (2) For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.
- (b) All compliance reports must be signed and certified in accordance with Section 6.15(a) of this ordinance.
- (c) Sampling and analysis shall be performed in accordance with Section 6.11 and Section 6.12.

6.4 Periodic Compliance Reports

- (a) Each SIU must, at a frequency indicated by the SIU's Industrial Wastewater Discharge Permit but no less than twice per year, submit reports indicating the nature, concentration of Pollutants in the Discharge which are limited by Pretreatment Standards. The report shall also include the measured or estimated total, average and maximum daily flows (30 minute peak) for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Director or the Pretreatment Standard necessary to determine the compliance status of the User. The report dates shall be specified in each SIU's Industrial Wastewater Discharge Permit.
- (b) The self-monitoring report shall be postmarked or received by the 25th of the month following the monitoring event unless, in the opinion of the Board, compliance with this deadline was not possible due to reasons beyond the reasonable control of the User.
- (c) The Director may require additional periodic compliance reports as necessary to carry out the purposes of this ordinance.

- (d) All periodic compliance reports must be signed and certified in accordance with Section 6.15(a) of this ordinance.
- (e) All Wastewater samples must be representative of the User's Discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its Monitoring Facilities in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its Discharge.
- (f) If a User subject to the reporting requirement in Section 6.4 monitors any regulated Pollutant at the appropriate sampling location more frequently than required by the User's Industrial Wastewater Discharge Permit, using the procedures prescribed in Section 6.12 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Electronic Submissions

Users that submit electronic (digital) documents to satisfy the requirements of this ordinance must submit them as specified by the Director.

6.6 Reports of Changed Conditions

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

- (a) The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an Industrial Wastewater Discharge Permit application under Section 4.4 of this ordinance.
- (b) The Board may issue an Industrial Wastewater Discharge Permit under Section 5.7 of this ordinance, modify an existing Industrial Wastewater Discharge Permit under Section 5.4 of this ordinance, or revoke an existing Industrial Wastewater Discharge Permit under Section 5.6 in response to changed conditions or anticipated change in conditions.

6.7 Reports of Potential Problems

- (a) In the case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a non-Customary Batch Discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the Industrial User shall immediately telephone and notify the Director of the incident. This notification shall include the location of the Discharge, type of waste, concentration and volume, if known, corrective actions taken by the User, and steps taken to prevent reoccurrence.

- (b) Within five (5) days following such Discharge, the Industrial User shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the Discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which might be incurred as a result of Damage to the POTW, natural resources, or any other damage to Person or property; nor shall such notification relieve the industrial User of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.
- (c) A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in Section 6.7(a). Employers shall ensure that all employees, who could cause such a Discharge to occur, are advised of the emergency notification procedure.
- (d) SIUs are required to notify the Director immediately of any changes at its facility that could change the potential for a Slug Discharge.

6.8 Reports from Unpermitted Users

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

6.9 Repeat Sampling and Reporting

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

6.10 Notification of the Discharge of Hazardous Waste

- (a) Users are prohibited from Discharging more than fifteen (15) kilograms (thirty-three (33) pounds) of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e).
- (b) This provision does not create a right to Discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

6.11 Analytical Requirements

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

6.12 Sample Collection

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

- (a) Except as indicated in Section (b) and (c) below, the User must collect Wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Director. Where time proportional composite sampling or grab sampling is authorized, the samples must be representative of the production day plus any other regularly conducted cleaning, maintenance, or other related activities that could result in Industrial Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Director, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.
- (b) Samples for FOG, Total Petroleum Hydrocarbons, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Where multiple Grab Samples are required by an Industrial Wastewater Discharge Permit, the Grab Samples shall be equally spaced throughout the day so as to be representative of the production day plus any other regularly conducted cleaning, maintenance, or other related activities that could result in Industrial Discharge. The time intervals between samples should not deviate more than fifteen (15) minutes.
- (c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in Section 6.1 and 6.3, a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile

organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by Section 6.4, the Industrial User is required to collect the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

6.13 Date of Receipt of Reports

(a) Physical Reports

- (1) Written reports that are delivered by a postal service or courier service shall be deemed to have been submitted on the date postmarked. The postmarked date shall be the later of the following:
 - (i) The postmark date on the envelope or packing containing the report;
 - (ii) The shipping date printed on the shipping label; or
 - (iii) The date the postal service or courier service received the report as indicated by the tracking information.
- (2) For reports which are not submitted in accordance with Section 6.13(a) or do not contain a postmark as described in Section 6.13(a), the date the report is delivered to and received by a City employee at 1201 S Nappanee St, Elkhart, IN 46516 is the date of receipt.

(b) For electronic submissions, the date of receipt is the date the electronic system marks the report as having been sent when the User submits the report in accordance with Section 6.5.

6.14 Recordkeeping

Industrial Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, any additional records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements, and documentation associated with Best Management Practices established under Section 2.9(c). Records shall include the date, exact place, method, and time of sampling, and the name of the individual(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the Industrial User or the City, or where the User has been specifically notified of a longer retention period by the Director.

6.15 Certification Statements

(a) The following certification statement is required to be signed and submitted by Users submitting Industrial Wastewater Discharge Permit applications in accordance with Section 4.5; Users submitting baseline monitoring reports under Section 6.1; Users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 6.3; and Users submitting periodic compliance reports required by Section 6.4. The following certification statement must be signed by an Authorized Representative as defined in Section 1.2(b):

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.

(b) Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to 1.7(ss)(3) and 4.5(c) must annually submit the following certification statement signed in accordance with the signatory requirements in 1.7(b). This certification must accompany an alternative report required by the Director:

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

The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.7(ss)(3);

The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and the facility never discharged more than one hundred (100) gallons of total categorical Wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

Section 7 - Compliance Monitoring

7.1 Right of Entry

- (a) The Director shall have the right to enter the premises of any Industrial User to determine whether the Industrial User is complying with all requirements of this ordinance and any Industrial Wastewater Discharge Permit or order issued hereunder. Industrial Users shall allow the Director immediate access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (b) Except as described in Section 7.2(e), where an Industrial User has security measures in force which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements so that, upon presentation of suitable identification, the Director shall be permitted to immediately enter for the purposes of performing specific responsibilities.
- (c) The Director shall have the right to set up on the Industrial User's property such devices as are necessary to conduct sampling, observation, and/or metering of the Industrial User's operations.
- (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User. All safety requirements of the facility should be communicated to the Director in advance of a changed safety requirement at the facility.
- (e) Monitoring may be conducted by analytical monitoring or visual monitoring. In all cases, analytical monitoring is preferred, however, when analytical monitoring is not an option, visual monitoring may be employed. The Director may conduct visual monitoring at the sole expense of the Industrial User to observe the actual conditions of the Sewer Laterals or downstream Sewers. Visual monitoring may include visual observation or televising of sewer lines and manholes.

7.2 Monitoring Facilities

- (a) Unless an exception is granted in accordance with Section 7.2(g), all Industrial Users who make a new connection or modify an existing connection to the POTW shall install Monitoring Facilities at the Industrial Users expense.
- (b) Unless an exception is granted in accordance with 7.2(g), each Industrial User shall maintain Monitoring Facilities for each point of connection with the POTW.

- (c) Unless an exception is granted in accordance with Section 7.2(g), each Categorical Industrial User shall maintain Monitoring Facilities for each process subject to a Categorical Pretreatment Standard. These facilities may be in addition to those required at the point of connection with the POTW.
- (d) All Industrial Users' Monitoring Facilities shall be maintained at all times in a safe and proper operating condition by the Industrial User at the Industrial User's own expense. The Director may require any existing Industrial User to install additional Monitoring Facilities, at the Industrial Users expense, as necessary to properly monitor the Industrial User.
 - (1) All components of Monitoring Facilities shall be calibrated according to the manufacturer's recommendations or as required by the Director to ensure their accuracy.
 - (2) All calibration testing results must be submitted to the Director upon request.
 - (3) A device shall be considered to have failed if the device is:
 - (i) Not operating within industry standards;
 - (ii) Not operating within manufacturer guidelines; or
 - (iii) Is operating in a way that the Director determines is not conducive to the safe and efficient operation of the POTW.
 - (4) If a component of the Monitoring Facility is subject to chronic failure, the Director may require the User to replace, rather than repair, the component. Chronic failure shall be defined as failure requiring repair three (3) or more times in a twenty-four (24) month period.
 - (5) All Industrial Users must repair or replace any failed component of a Monitoring Facility within fourteen (14) days unless an extension is granted by the Director on the basis of it not being reasonably practical to repair or replace the component within fourteen (14) days.
- (e) Unless an exception is granted in accordance with Section 7.2(g), Monitoring Facilities must be located so that the Director can commence sampling of the Industrial Discharge without being required to present proper identification and receive clearance. At the request of the Industrial Discharger, City employees will present proper identification as soon as reasonably convenient after commencing sampling.
- (f) All Monitoring Facilities shall meet the Director's or Board's requirements and State and local construction standards and specifications. The Industrial User shall provide plans to the Director in a format acceptable to the Director. The Director shall notify the Industrial User of any objection to the plans or portions of the plan. Failure to object

to the plan or any portion of the plan does not ensure that the plan, portion of plan, or the Monitoring Facilities described therein are appropriate for the particular application.

(g) The Director may determine that Monitoring Facilities in their entirety, components of the Monitoring Facilities, or the location requirement of Section 7.2(e) are not required where the Director finds that the Monitoring Facilities, components, or locations requirement under Section 7.2(e) would not aid in the safe, efficient, or compliant operation of the POTW. Any determination by the Director must ensure adequate monitoring of each SIU to demonstrate continued compliance with Pretreatment Standards and be consistent 40 CFR 403.12(g).

7.3 Search Warrants

The Director may obtain a search warrant from a court of competent jurisdiction when the Director has been refused access to a building, structure, property, or any part thereof. The Director must be able to demonstrate that an Industrial 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.

Section 8 - Confidential Information

Information and data on an Industrial User obtained from reports, questionnaires, Industrial Wastewater Discharge Permit applications, Industrial Wastewater Discharge Permits, monitoring programs, and from the Director's inspection and sampling activities, shall be available to the public without restriction, unless the Industrial User specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State or federal law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the Industrial 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 National Pollutant Discharge Elimination System program or Pretreatment program, and in enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics and other Discharge data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

Section 9 - Publication of Users in Significant Noncompliance

The Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Industrial Users which, at any time during the prior calendar year, were in Significant Noncompliance with applicable Pretreatment Standards.

Section 10 - Administrative Enforcement Remedies

10.1 Notification of Violation

When the Director finds that a User has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard, the Director may serve upon that User a written Notice of Violation. Within fifteen (15) calendar 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 Director. 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 Section 10 shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

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

- (a) A compliance schedule;
- (b) The monetary penalty as listed in the Enforcement Response Plan;
- (c) A plan for remediating the violation; and
- (d) Authorized signatures of the representative of the User and the Board.

10.3 Show Cause Hearing

The Board may order a User which has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard, to appear before the Board and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative as defined in Section 1.2(b). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard, Board may issue an order to the User responsible for the Discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of Pollutants Discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.5 Cease and Desist Orders

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

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

10.6 Administrative Fines

- (a) When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard, the Board may fine such User in an amount not to exceed two thousand five hundred dollars (\$2,500) for a first violation of the ordinance and seven thousand five hundred dollars (\$7,500) for a second or subsequent violation of the ordinance. Such fines may be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines may be assessed for each day during the period of violation.
- (b) The Enforcement Response Plan shall list recommended penalties; however, the Board shall have the authority and discretion to assess fines and penalties for amounts not in conflict herewith.
- (c) The City may seek reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages, including, but not limited to, Damages to the POTW, incurred by the City.

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

10.7 Emergency Suspensions

(a) The Director 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 Director 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.

(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 Director may take such steps as deemed necessary, including immediate severance of the sewer connection or shutting off water service to the User as allowed by law, to prevent or minimize Damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the User to recommence its Discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the User.

(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 Director prior to the date of any show cause or termination hearing under Sections 10.3 or Section 10.8 of this ordinance.

(b) Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

10.8 Termination of Discharge

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

(1) Violation of Industrial Wastewater Discharge Permit;

(2) Failure of an Industrial User to accurately report the Wastewater constituents and characteristics of its Discharge;

(3) Failure of an Industrial User to report significant changes in operations or Wastewater volume, constituents, and characteristics prior to Discharge;

- (4) Refusal of reasonable access to an Industrial User's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of Section 2 of this ordinance.

(b) Such User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under Section 10.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Board shall not be a bar to, or a prerequisite for, taking any other action against the User.

(c) If the User fails to comply with the suspension or termination order, the Director shall take all steps as deemed necessary to halt the Discharge including by severance of the sewer connection, shutting off water service to the Use, or any other method allowed under the law.

(d) The Board shall not reinstate the permit or the Wastewater service until proof of the elimination of the non-complying Discharge and any costs for disconnection and reconnection of Wastewater service have been paid by the User.

Section 11 - Judicial Enforcement Remedies

11.1 Injunctive Relief

When the Board finds that a User has violated, or continues to violate, any provision of this ordinance, an Industrial Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard, the Board may petition a court of competent jurisdiction through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Industrial Wastewater Discharge Permit, order, or other requirement imposed by this ordinance on activities of the User. The Board may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Other Relief

A User shall be liable for any and all damages, losses and expenses sustained by the City as a result of noncompliance, including, but not limited to, Damages to the POTW. The Corporation Counsel may commence an action for appropriate legal and equitable relief in the appropriate court of competent jurisdiction in order to obtain remedies for noncompliance by the User.

11.3 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive and more than one enforcement action against any noncompliant User may be taken. The Director or Board may take other actions

not in conflict herewith as it may be deemed necessary for the safe, economical and efficient management of the POTW.

Section 12 - Affirmative Defenses to Discharge Violations

12.1 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.6(a)(1) of this ordinance or the specific prohibitions in Sections 2.6(b)(4), (5), (7), (8), (9), (10), (11), (15), and (16) of this ordinance if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

- (a) A Local Limit exists for each Pollutant Discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- (b) No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the City was regularly in compliance with its NPDES Permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

12.2 Upset

- (a) An Upset, as defined by Section 1.2(bbb), shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of Section 12.2(b) are met.
- (b) A User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An Upset occurred and the User can identify the cause(s) of the Upset;
 - (2) The facility was at the time being operated in a prudent and workman like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The User has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the Upset. If this information is provided orally, a written submission must be provided within five (5) days;
 - (i) A description of the Discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

- (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the User seeking to establish the occurrence of an Upset shall have the burden of proof.
- (d) Users shall have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
- (e) Users shall control production of all Discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

12.3 Bypass

- (a) A User may allow any Bypass, as defined in Section 1.2(e), to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These Bypasses are not subject to the provision of Section 12.3(b) and (c).
- (b) Bypass Notifications
 - (1) If a User knows in advance of the need for a Bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the Bypass, if possible.
 - (2) A User shall submit oral notice to the Director of an unanticipated Bypass that exceeds applicable Pretreatment Standards within 15 minutes from the time it becomes aware of the Bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass.
- (c) Bypass
 - (1) Bypass is prohibited, and the Director may take an enforcement action against a User for a Bypass, unless
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or Severe Property Damage;

- (ii) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (iii) The User submitted notices as required under Section 12.3(b).

(2) The Director may approve an anticipated Bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in Section 12.3(c)(1).

Section 13 - Food Service Establishments Administrative Requirements

13.1 Registration of FSEs

No FSE shall Discharge, or cause to be Discharged any Wastewater from an FSE directly or indirectly into the Sewer system without first registering with the City of Elkhart. Registration under this ordinance is for a specific FSE, for a specific operation and creates no vested rights. The registration is issued by the Director certifying that all prerequisites listed below, in addition to any other requirements of this ordinance, are satisfied at the time of issuance and the FSE may commence Discharging to the POTW.

An FSE seeking registration must complete the following to the satisfaction of the Director:

- (a) Submit a FOG application;
- (b) Install a Grease Control Device;
- (c) Implement Best Management Practices;
- (d) Pass a sight inspection conducted by the Director; and
- (e) Submit records of Health Department and Plumbing Inspector approvals.

13.2 Pretreatment Facilities

(a) New FSEs

All FSEs that began operation after June 1, 2015 shall be required to install a FOG Control Device in accordance with state and local requirements. Change in ownership within immediate family members (parents, spouses, siblings or children) does not constitute an FSE being categorized as a NEW FSE.

(b) Existing FSEs

The Director may require FSEs that were in operation on June 1, 2015 to install a new or additional FOG Control Device where the Director finds that the new or additional FOG Control Device is necessary for the safe, economical and efficient management of the POTW.

(c) The Board may grant a variance to the requirement for an FSEs that began operation after June 1, 2015 to install a FOG Control Device if the FSE:

- (1) Is unable to install a FOG Control Device as required by this ordinance due to physical constraints at the facility; or
- (2) Has an existing FOG Control Device that is proven to be effective in minimizing the release of FOG in the POTW as determined by visual or analytical monitoring.

13.3 Change of Ownership

An FSE must notify the Director at least fifteen (15) calendar days prior to a change or transfer of ownership. The Director may transfer the registration of an FSE if the notice above is given and the Director find that there will be no substantive changes in operation.

13.4 Change of Authorized Representative

The FSE must maintain current contact information at the FSE for the FSE's Authorized Representative and be able to provide that information to the Director at all reasonable times.

13.5 Remodeling

An FSE shall notify the Director at least fifteen (15) calendar days prior to undertaking any remodeling or improvements related to food preparation or cleaning.

13.6 Changes in Operations

An FSE shall notify the Director at least fifteen (15) calendar days prior to any significant changes to the User's operations or system which might alter the amount or concentration of FOG in its Wastewater at least. Such changes might include, but are not limited to, significant changes in operating hours, number of meals served, seating capacity, menu, or food preparation methods.

13.7 FOG Spill Plan

Each FSEs shall develop a plan that outlines measures to be taken in the event of a FOG spill. This plan shall be used to prevent the accidental Discharge of FOG into the POTW. A copy of the plan must be maintained at the FSE and be available to the Director at all reasonable times.

13.8 FSE Reporting

- (a) Each FSE shall submit to the Director a copy of its maintenance records relating to its FOG Control Device upon request by the Director.
- (b) The Director may require periodic reporting regarding Best Management Practices.
- (c) Other reports may be required such as compliance schedule progress reports and any other reports deemed reasonably appropriate by the Director.

Section 14 - Miscellaneous Provisions

14.1 Severability

If any provision, paragraph, word, or section of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, and sections shall not be affected and shall continue in full force.

14.2 Conflict

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

14.3 Tampering with or Damaging POTW Property

No Person shall maliciously, willfully or recklessly cause Damage to the POTW or modify or uncover any structure, appurtenance or equipment which is a part of or owned by the POTW.

14.4 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.

14.5 Determination of Wastewater Volume

- (a) For the purposes of this Ordinance, all Users may be required to use a water meter, Discharge meter, or a water meter in combination with a subtract meter to determine the flow of Wastewater entering the POTW.
- (b) For the purposes of billing, residential properties that have a single water service line with one water meter and no Discharge meter are given a sprinkler credit on Wastewater Discharge amounts billed in May, June, July, August, September, and October. The credit is determined in the following manner:

- (1) The actual volume of Discharge into the POTW during the billing period if known by the Director; or
- (2) The average volume of Discharge into the POTW as reflected in the billings for the months of December in the previous year and January and February in the current year.

14.6 Pretreatment Charges and Fees

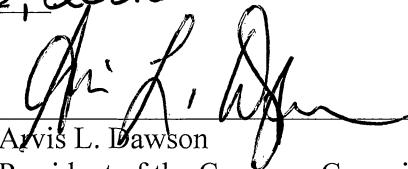
- (a) Basic sewer charges, pretreatment fees and charges, Surcharges, surveillance charges and all other fees and charges, excluding penalties for violations of this ordinance, shall be in accordance with City of Elkhart's Wastewater Utility Rate Ordinance as amended from time to time.
- (b) Surcharges shall be billed based on the flow weighted average of all representative results for each Surcharge parameter in the billing time period unless the Director determines that an alternative calculation would be more representative of the actual Discharge. The billing time period shall be set by the Director.
- (c) Surcharges shall be billed for applicable Discharges from SIUs, political subdivisions, and other Users where the Director finds Surcharges will aid in the efficient billing or operation of the POTW.

Section 15 - Effective Date

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

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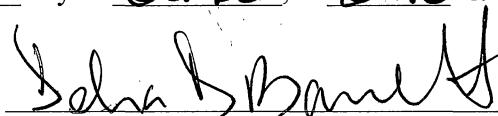
SO ORDAINED this October 6, 2025


Avis L. Dawson
President of the Common Council

ATTEST:


Debra D. Barrett, City Clerk

Presented to the Mayor by me this 7th day of October, at 8:13 am


Debra D. Barrett, City Clerk

Approved by me this 8th day of October


Rod Roberson, Mayor

ATTEST:


Debra D. Barrett, City Clerk