

# **Title 5. Public Works and Utilities**

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## **Article 1 Streets and Sidewalks**

### **Chapter 1 In General**

#### **5.1.1.1 Oil spills.**

Sec. 1 It shall be unlawful for any person to pour, spill, or permit to drip, upon any asphalt or asphalt macadam pavement laid on any street, alley, or other public place, any kerosene, gasoline, therefore, or other similar oil or oily substance.

(Ord. 214, § 1, 8-3-1908)

### **Chapter 2 Right of Way Cuts**

#### **5.1.2.1 In general.**

Sec. 1 (a) Any person, firm, corporation, public utility or other entity performing work that requires the paved portion of the right-of-way, including curbs, to be cut in the City of Goshen, Indiana, shall perform such work in accordance with this Code chapter.

(b) Any person, firm, corporation, public utility or other entity performing work to construct, lay, repair or maintain utilities in the unpaved portion of the right-of-way in the City of Goshen, Indiana, shall perform such work in accordance with this Code chapter.

(Ord. 3659, § 1, 5-16-1995)

#### **5.1.2.2 Permit required.**

Sec. 2 (a) No paved surface within the public right-of-way shall be cut without first obtaining a permit from the City of Goshen. Any cut of the right-of-way to construct, lay, repair or maintain utilities in the unpaved portion of the right-of-way shall also require a permit.

(b) Application for a right-of-way cut permit shall be made on forms furnished by the City of Goshen at least ten days prior to commencing the scheduled work. Applications and permit terms for right-of-way cuts may be obtained from the Street Department or the Engineering Department. All permit applications must be submitted to the Street Department.

(c) Both the Street Commission and the City Engineer shall review the application for a right-of-way cut permit, and approval shall be granted and a permit issued if the proposed work meets all

requirements of this Code chapter, including all permit terms.

(d) If a right-of-way cut is necessitated by an emergency situation and it is impractical to make an application ten days prior to commencing work or the necessary work must be made during non-business hours of the City, the required right-of-way cut permit must be obtained the next business day. For the purposes of this Code section, an emergency situation is a situation that could not reasonably be foreseen and that threatens the public health, welfare or safety and requires immediate action to be taken.

(Ord. 3659, § 2, 5-16-1995)

#### **5.1.2.3 Permit fee.**

Sec. 3 (a) Permits required by 5.1.2.2 of this Code, shall be issued upon prior payment of all permit fees. The permit fee for each right-of-way cut, including a non-pavement cut shall be as set forth in the ordinance.

(b) Upon approval of the Street Commissioner, public utilities may be allowed to apply for permits and then be billed monthly for the cost of those permits.

(c) Permit fees collected shall be deposited into the Motor Vehicle Highway Fund.

(Ord. 3659, § 3, 5-16-1995)

#### **5.1.2.4 Permit duration.**

Sec. 4 A permit shall be valid for a period of three months from the date of issue. If work has not been completed within this time, a new application must be submitted and a new permit issued before the work can be continued, unless extended by the Street Commissioner.

(Ord. 3659, § 4, 5-16-1995)

#### **5.1.2.5 Bond required.**

Sec. 5 (a) Any person, firm, corporation, or public utility or other entity performing work that requires a right-of-way cut permit shall be required to submit a surety bond to the City of Goshen in the amount of Five thousand Dollars (\$5,000.00). The bond is to insure the faithful performance of the work involved in accordance with this Code chapter and other ordinances of the City with reference to replacing and repairing all infrastructures involved. The bond shall be in full force and effect one (1) year from final inspection and approval of the work by the City of Goshen.

(b) Any person, firm, corporation, public utility or other entity performing several projects that

require a right-of-way cut permit may submit a blanket surety bond in incremental amounts of Five thousand Dollars (\$5,000.00). The bond is to insure the faithful performance of the work involved in accordance with this Code chapter and other ordinances of the City with reference to replacing and repairing all infrastructures involved. The bond shall be in full force and effect one (1) year from final inspection and approval of the work by the City of Goshen.

(c) Upon approval of the Board of Public Works and Safety, a person, firm, corporation, public utility or other entity performing work that requires a right-of-way cut permit may submit a letter of surety, an irrevocable letter of credit or certificate of deposit for an equivalent amount in lieu of a bond. The same condition set forth in 5.1.2.5(a) and 5.1.2.5(b) of this Code, shall apply to the letter of surety, irrevocable letter of credit or certificate of deposit.

(d) The surety bond will be waived for a person performing work that requires a right-of-way cut permit for the construction of a residential driveway. The person is still required to obtain a right-of-way cut permit.

(Ord. 3659, § 5, 5-16-1995)

#### **5.1.2.6 Inspections.**

Sec. 6 The City of Goshen Street Department shall be notified a minimum of 24 hours prior to the commencement of work and upon completion of the work for required inspection to insure compliance with this Code chapter and the terms of the right-of-way cut permit.

(Ord. 3659, § 6, 5-16-1995)

#### **5.1.2.7 Violations.**

Sec. 7 It shall be unlawful for any person, firm, corporation, public utility or other entity to perform any work contrary to or in violation of the provisions of this Code chapter and the terms of the right-of-way cut permit.

(Ord. 3659, § 7, 5-16-1995)

#### **5.1.2.8 Stop order.**

Sec. 8 Whenever it is found that any work is being done contrary to or in violation of this Code chapter and the terms of the right-of-way cut permit, the Street Commissioner or a duly authorized representative may order the work stopped by serving notice in writing to any persons engaged in the work. Such persons shall, without delay, stop such work until authorized by the Street Commissioner or a duly authorized representative to proceed.

(Ord. 3659, § 8, 5-16-1995)

#### **5.1.2.9 Right to hearing.**

Sec. 9 (a) In the event any person, firm, corporation, public utility or other entity receiving notification of a violation of this Code chapter does not believe that they are in violation, the person, firm, corporation, public utility or other entity may request a hearing before the Board of Public Works and Safety. Such hearing shall be requested in writing to the Mayor's Office, and shall be held within ten days of receipt of the written request.

(b) At the hearing, the Board of Public Works and Safety shall enter a finding of fact designating that the party notified was performing work that requires a right-of-way cut permit and whether the party is in violation of this Code chapter. The Board shall take action to either affirm or rescind the decision of the Street Commissioner or a duly authorized representative.

(c) At the hearing before the Board of Public Works and Safety, the party requesting review may be represented by counsel, shall have the opportunity to cross-examine those persons establishing the violation for the City, and testify on their own behalf. The City of Goshen shall also assist such persons in obtaining witnesses, exhibits and documentation to present at the time of the hearing where such information is not available to the person requesting assistance and can be obtained by the City.

(Ord. 3659, § 9, 5-16-1995)

#### **5.1.2.10 Penalties.**

Sec. 10 (a) Any person, firm, corporation, public utility or other entity who violates any provisions of this Code chapter, shall be fined an amount not to exceed Five hundred Dollars (\$500.00), in addition to court costs. Each day that a violation continues shall constitute a separate offense. The violator shall also reimburse the City of Goshen for its reasonable expenses in enforcing this Code chapter, including reasonable attorney's fees.

(b) The City of Goshen may bring action to enforce the provisions of this Code chapter in any court of competent jurisdiction within Elkhart County, Indiana.

(Ord. 3659, § 10, 5-16-1995)

### **Chapter 3 Visual Obstructions**

#### **5.1.3.1 Prohibited.**

Sec. 1 On property at any corner formed by intersecting streets, it shall be unlawful to install, set

out or maintain, or to allow the installation, setting out or maintenance of any sign, hedge, shrubbery, natural growth or other obstruction to the view, higher than thirty (30) inches above the level of the center of the adjacent intersection, within that triangular area between the property line and a diagonal line joining points on the property lines, thirty (30) feet from the point of their intersection. The tangents referred to are those at the beginning and at the end of the curve at the corner. §§

(Ord. 1607, § 124, 5-6-1963)

#### **5.1.3.2 Exceptions.**

Sec. 2 The provisions of this Code chapter shall not apply to permanent buildings, public utility poles, trees trimmed to the trunk to a line at least eight (8) feet above the level of the intersection, saplings, or plant species of open growth habits and not planted in the form of a hedge, which are so planted and trimmed as to leave at all seasons a clear and unobstructed crossview; supporting members of appurtenances to permanent buildings existing on June 18, 1963; official warning signs or signals to places where the contour of the ground is such that there can be no cross-visibility at the intersection; or to signs mounted ten (10 ) feet or more above the ground whose supports do not violate this Code chapter.

(Ord. 1607, § 125, 5-6-1963)

#### **5.1.3.3 Elimination by City.**

Sec. 3 Any obstruction maintained in violation of this Code chapter shall be removed within twenty (20) days after the posting upon the premises of notice to abate the violation. If the violation is not removed a representative of the City may enter upon the premises and remove or eliminate the obstruction and assess the expenses of its removal against such person or persons owning the real estate, and provide for collecting such expenses either by causing them to be placed on the tax duplicate or by suit.

(Ord. 1607, § 126, 5-6-1963)

## **Article 2 Water Works**

### **Chapter 1 Water Utilities Water System**

#### **5.2.1.1 Right to connect and connection charges.**

Sec. 1 (a) A person shall have the right to connect a building located within the Goshen corporate limits to the Water Utility's water system upon payment of a connection charge in accordance with the schedule of rates as set forth in the ordinance.

(b) A building located outside the Goshen corporate limits may not connect to the Water Utility's water system unless the owner of the affected real estate executes an Agreement with the City of Goshen and the Agreement has been approved by the Common Council.

(c) A customer or developer shall pay a connection charge for each connection made to the Water Utility's water system. The connection fee is required for each connection, regardless if the connection is made to a public water main or to a privately-owned water line. A connection charge may be waived in whole or in part only upon the approval of the Common Council.

(d) Each new metered water service, except a residential metered sprinkling water service, must be connected directly to a public water main.

(e) Each building used for residential, commercial or industrial connected to the Water Utility's water system must be connected directly to a public water main unless otherwise approved in writing by the Board of Public Works and Safety pursuant to 5.2.1.1 (f) of this Code.

(f) The Board of Public Works and Safety may approve, in writing, water service to a second building on a single zoning lot to be connected through the primary building's water service if the Board of Public Works and Safety finds that the two buildings have the same ownership and that one of the buildings is subordinate and serves the principal building on the zoning lot. The Board of Public Works and Safety must condition the approval upon a requirement for the second building to connect its water service directly to the public water main if the zoning lot is divided so that the two buildings are not on the same zoning lot and the ownership of the two buildings does not remain the same. The water service for the two buildings may not be separately metered.

(g) Connections to a Public Water Main.

- 1) Effective January 1, 2005, the Goshen Water Department shall make all connections to a public water main in which the connection is twelve inches (12") or smaller in size unless the Board of Public Works and Safety gives a customer or developer the express prior written authorization to make the connection. All connections to a public water main in which the connection is greater than twelve inches (12") in size shall be made by a private contractor at the expense of the customer or developer. All such connections shall be inspected and approved by the Water Department.
- 2) A public water main must be located in right-of-way dedicated to the City by the owner of the real estate for such purposes. Any water line on private real estate shall be deemed a privately-owned water line unless clear intent to the contrary is shown by prior written dedication of the water line to the City of Goshen accepted by the Board of Public Works and

## Safety

### (h) Connections to a Privately-Owned Water Line.

- 1) Upon recommendation of the Goshen Engineering Department and with the express prior written approval of the Board of Public Works and Safety, a privately-owned water line may be installed to service multiple buildings located on a single zoning lot as set forth in 5.2.1.1 (f) of this Code.
- 2) All connections to a privately-owned water line shall be made by a private contractor at the expense of the customer or developer.

### (i) Schedule of Connection Charges.

#### 1) Connections Made by the Goshen Water Department.

(A) the fee schedule as set forth in the ordinance is applicable to all connections to a public water main in which the connection is made by the Goshen Water Department. The connection charge includes the right to connect to the water system, the City's cost to furnish and install the water service pipe from the public water main to the lot line, and the installation of a curb stop or valve. The connection charge does not include the cost to furnish and install the building line from the building to the curb stop or valve, the cost of the meter or meter horn, or the inspection charge.

(B) in the event that a connection was previously made to the public main and a curb stoop or valve was installed as part of another project, however, a building which would be serviced by the connection was not connected to the Water Utility's water system at that time, then the connection charge as set forth in the ordinance will be for the right to connect to the water system. The connection charge does not include the cost to furnish and install the building line from the building to the curb stop or valve, the cost of the meter or meter horn, or the inspection charge.

- 2) Connections Made by a Private Contractor. In the event that the Goshen Water Department is unable to make the connection to a public water main requiring the customer or developer to hire a private contractor to make the connection, or in the event the connection is to a privately-owned water line, the connection charge as set forth in the ordinance will be for the right to connect to the water system. The connection charge does not include the cost to furnish and install the water service pipe from the public water main or privately-owned water line to the building, the curb stop or valve, the cost of the meter or meter horn, or the inspection charge.

(j) Inspection.

- 1) Each customer or developer, prior to making a connection to the Water Utility's water system shall pay an inspection fee as set forth in the ordinance. If a reinspection is required due to the improper installation of the water main or water line, the customer or developer shall pay a reinspection fee.
- 2) In the event that more than one (1) water main or water lines are inspected on a single parcel of real estate at the same time, the Water Utility may elect to charge a single inspection fee.
- 3) If at the time of the inspection, the water main or water line to be inspected is not sufficiently exposed to allow inspection, the customer or developer will uncover the water main or water line to allow for an adequate inspection. A reinspection fee as set forth in the ordinance will be assessed to the customer or developer.
- 4) The inspection shall be scheduled with the Water Utility at least two (2) working days in advance.

(Ord. 4290, § 1, 5-3-2005)

**5.2.1.2 Injuring, obstructing, etc. of the waterworks.**

Sec. 2 It shall be unlawful for any person to obstruct the free access or injure in any manner any building, machine, apparatus or fixture of the water works.

(Ord. 545, §§ 3 and 4, 4-6-1925)

**5.2.1.3 Water meter required.**

Sec. 3 Except for temporary service 5.2.2.2 of this Code, all water service shall be through lines to which is attached a water meter meeting the specifications of the City; provided, however, that all connections with the distribution pipes of the City water works shall be through lines which is attached a water meter equipped for remote reading meeting the specifications of the City; provided, further that where connections with distribution pipes of the City waterworks have been made prior to June 1, 1978, and the lines of such water utility do not have attached water meters equipped for remote reading, any change or transfer of any such water utility service to any new or different customer shall be subject to the replacement that such service be provided through lines of such water utility that have attached water meters equipped for remote reading, unless such replacement is waived by the Board of Public Works and safety on the ground that it is unnecessary or that it would cause undue hardship as applied to a particular user.

(Ord. 2472, § 1, 2-7-1978; Ord. 2490, § 1, 5-11-1978)

#### **5.2.1.4 Water meter installation.**

Sec. 4 (a) The installation of water meter(s) to monitor the water and sewer consumption in a multiple-unit building shall be pursuant to the requirements of this Code chapter.

(b) Water Meter. Each unit in a building will be separately metered unless the Board of Public Works and Safety gives the owner of the building express prior written approval to permit multiple units in the building to be serviced by a single meter. Such approval may not be given unless the owner of the real estate registers the water and sewer services in the owner's name and the owner pays all charges for the water and sewer services for that real estate.

(c) Installation of One Water Meter. If one water meter is installed to monitor the water and sewer consumption in more than one unit in a multiple-unit building, the owner of the building must register the water and sewer services in the name of the owner, and the owner will be billed and shall be responsible for payment of all water and sewer charges.

(d) Installation of Multiple Water Meters. If multiple water meters are installed to monitor the water and sewer consumption in a multiple-unit building, the owner of the building must comply with one of the following requirements for the installation:

- 1) If the water and sewer services for the building are registered in the name of the owner, the owner will be billed and shall be responsible for payment of all water and sewer charges.
- 2) The water and sewer services for each unit in the building may be registered in the name of the tenant, provided the owner agrees to install and maintain in working order, at the owner's expense, an outside curb stop valve for each water meter installed so that utility services to a unit can be independently shut off without disrupting utility services to the other units in the building.

(e) Curb Stop or Valve.

- 1) Existing Service. The water and sewer services for any multiple-unit building that does not have sufficient outside curb stop valves for each water meter installed so that utility services can be independently shut off without disrupting utility services to the other units in the building may be billed to the individual tenants provided that the water and sewer charges were billed to the individual tenants prior to November 1, 2001 and have been continuously billed to the individual tenants since November 1, 2001 except for periods that are no longer than two (2) years in duration. If an existing tenant moves from the building, the water and

sewer services may be registered in the name of the new tenant provided the new tenant pays a deposit for water services as established by the current water rate ordinance and a deposit for sewer services as established by the current sewer rate ordinance.

- 2) Each building connected to the Water Utility's water system after September 1, 2004 and every new connection must have installed an outside curb stop or valve.
- 3) Each unit in a multi-unit building that is separately metered must have an outside curb stop or valve for each water meter installed so that utility services to a unit can be independently shut off without disrupting utility services to other units in the building.

(f) Building Water Line: Each customer shall maintain the building water line from the curb stop or valve to any building on the customer's real estate in good working order at the customer's expense. In the event that there is no curb stop or valve, the customer shall maintain the building water line from the edge of the City's right-of-way to any building on the customer's real estate at the customer's expense

(g) Access to Premises: The owner of a multiple-unit building and/or tenant shall grant employees of the Water and Sewer Utilities immediate access to each water meter when necessary for the purpose of inspecting, repairing, removing, or replacing the meter.

(Ord. 4052, § 1, 2-5-2002; Ord. 4290, § 1, 5-3-2005)

#### **5.2.1.5 Meter prohibited in pits.**

Sec. 5 Water meters may not be located in a pit without prior written approval of the water department. The approval shall not be given unless the proposed pit meets the conditions and specifications of the water department as approved by the Goshen City Board of Public Works and Safety.

(Ord. 3411, 6-5-1990)

#### **5.2.1.6 Unauthorized connection or use of water.**

Sec. 6 (a) It shall be unlawful for any person to tap or make any connections with the distributing pipes of the City's water works unless duly authorized to do so.

(b) A person connecting a location to the Water Utility's water system without the knowledge and consent of the Water Utility shall be charged a fee of Five hundred Dollars (\$500.00) unless the Water Utility can establish that a greater fee should be charged by applying the schedule of rates and charges.

(c) Except as provided in 5.2.2.4 of this Code, a person taking water from any public or private fire hydrant, faucet or in any way using water for private use which is supplied by the Water Utility without the knowledge and consent of the Water Utility shall be charged a fee of Five hundred Dollars (\$500.00) unless the Water Utility can establish that a greater fee should be charged by applying the schedule of rates and charges.

(Ord. 545, § 2, 4-6-1925; Ord. 4290, §§ 1 and 2, 5-3-2005)

## **Chapter 2 Water Usage Schedule**

### **5.2.2.1 Monthly usage charge and monthly service charge.**

Sec. 1 (a) Rates and charges are established for the use of and services rendered by the Goshen Water Utility.

- 1) Each customer shall pay a monthly usage charge based on the metered cubic feet of water supplied and monthly service charge based on the applicable size of meter installed in accordance with the fee schedule set forth in the ordinance.

(Ord. 4290, § 2, 5-3-2005)

### **5.2.2.2 Temporary customers.**

Sec. 2 Each temporary customer consuming water on an unmetered basis shall pay, a monthly usage charge based on the cubic feet of water used as established by the ordinance. In addition, each temporary customer shall pay a monthly administrative fee.

(Ord. 4290, § 2, 5-3-2005)

### **5.2.2.3 Billing cycle.**

Sec. 3 For the purposes of billing and collecting the rates and charges for water use, the Goshen Water Utility will bill customers on a monthly basis.

(Ord. 4290, § 2, 5-3-2005)

### **5.2.2.4 Fifth Street water fill station.**

Sec. 4 A customer may dispense water into the person's own tank or other container from the water fill station located at the Water and Sewer Department at 308 North Fifth Street. The customer shall be charged in accordance with the fee set forth in the ordinance.

(Ord. 4290, § 2, 5-3-2005)

## Chapter 3 Fire Protection Services

### 5.2.3.1 Fire hydrants.

Sec. 1 All hydrants constructed by the City are hereby declared to be public hydrants.

(Ord. 545, § 4, 4-6-1925)

### 5.2.3.2 Unauthorized use of fire hydrants.

Sec. 2 It shall be unlawful for any person other than members of the fire department, for the use and purpose of said department and such other purposes as may be specifically authorized by the superintendent of water works or the Board of Public Works and Safety, to open any public hydrant. It shall be unlawful for any such person, except as above set out and except in case of fire, to take water from any fire hydrant, or remove the cover therefrom, or to, at any time, place or deposit any earth or other material in or about any hydrant or the boxes or appendages thereto.

(Ord. 545, § 4, 4-6-1925)

### 5.2.3.3 Injuring, obstructing, etc. of the waterworks.

Sec. 3 It shall be unlawful for any person to obstruct the free access or injure in any manner any building, machine, apparatus or fixture of the water works.

(Ord. 545, §§ 3 and 4, 4-6-1925)

### 5.2.3.4 Rates and charges for fire protection services.

Sec. 4 The following rates and charges are established for fire protection services rendered by the Goshen Water Utility:

1) Public Fire Hydrants.

(A) the City of Goshen adopts the provisions of Indiana Code 8-1-2-103(d). The Common Council provides that costs for the production, storage, transmission, sale and delivery, or furnishing of water for public fire protection purposes shall be recovered and included in the basic rates for all customers of the Goshen Water Utility.

(B) effective January 1, 2005, the construction cost of any fire hydrant installed at the request of the City shall be paid for by the City or the developer if required by the City. The schedule of rates as set forth in the ordinance shall eliminate the fire protection charges billed directly to the City of Goshen, other than charges for the construction cost for new hydrants installed on or after January 1, 2005.

(C) each customer of the Water Utility and/or Sewer Utility shall pay a monthly public fire protection charge as follows:

(i) Water Utility Customers: Customers of the Water Utility will be charged a monthly public fire protection charge which is included in the monthly service charges as set forth in the ordinance, based on the applicable size of water meter installed. Sprinkling meters for lawn watering purposes shall be excluded from this charge.

(ii) Sewer Utility Customers: Customers of the Sewer Utility within the Goshen corporate limits whose real estate is not connected to the Water Utility's water system will be charged a monthly public fire protection charge as set forth in the ordinance based on the applicable size of meter installed. Customers of the Sewer Utility who do not have a meter installed will be charged a monthly public fire protection charge in accordance with the rate for a five-eighths inch (5/8") meter. This amount will be included on the customer's monthly sewer utility bill.

2) Private Fire Hydrants.

(A) Each customer of the Water Utility with a private fire hydrant serving the customer's location shall pay an annual fire protection charge as set forth in the ordinance for private fire protection services for each private fire hydrant. The Water Utility billing office reserves the right to bill all customers for the charge on a monthly basis.

(B) Upon payment of this fire protection charge, the Goshen Water Department will provide periodic maintenance, flushing, and replacement parts for any outside private fire hydrant. The City will provide maintenance and flushing upon the condition that the Water Department is granted access to the private fire hydrant for such purposes upon the Water Department's request during regular business hours. Such maintenance and flushing will be provided at similar intervals as to what City now provides to the City's public fire hydrants. The replacement of a private fire hydrant is not covered by this charge.

3) Private Fire Sprinkler Line Connections.

Each customer of the Water Utility with a private fire sprinkler line connection serving the customer's location shall pay an annual fire protection charge for private fire protection services as set forth in the ordinance based on the size of sprinkler line connection for each private fire sprinkler line connection. The Water Utility billing office reserves the right to bill all customers for the charge on a monthly basis.

(Ord. 4290, § 3, 5-3-2005)

## Chapter 4 Non-Recurring Charges

### 5.2.4.1 Service deposit.

#### Sec. 1 (a) Residential Customers.

- 1) A residential customer who is not the legal owner of the real estate serviced by the Water Utility shall pay a service deposit as set forth in the ordinance when applying for service.
- 2) A residential customer who is the legal owner of the real estate serviced by the Water Utility shall pay a service deposit as set forth in the ordinance when applying for service, unless the residential customer had an account with the Water Utility in the customer's name for at least six (6) consecutive months prior, and all payments under the account are current and paid by their respective due dates during that six (6) month period.

#### (b) Non-Residential Customers.

- 1) A commercial, industrial, or other non-residential customer who is not the legal owner of the real estate serviced by the Water Utility shall pay a service deposit equal to one-sixth (1/6) of the estimated annual billing for that location or the rate as set forth in the ordinance, whichever is greater, when applying for service.
- 2) A commercial, industrial, or other non-residential customer who is the legal owner of the real estate serviced by the Water Utility shall also be required to pay a service deposit equal to one-sixth (1/6) of the estimated annual billing for that location or the rate as set forth in the ordinance, whichever is greater, unless the customer had an account with the Water Utility in the customer's name for at least six (6) consecutive months prior, and all payments under the account are current and paid by their respective due dates during that six (6) month period.

(c) The service deposit may be applied to any outstanding charges of the customer following the disconnection of service due to non-payment or when the account is closed. Any surplus balance will be refunded to the customer by mail within thirty (30) days after payment of the final bill. Should a balance exist on the account after application of the service deposit, the City reserves the right to collect any such balance as provided by law.

(Ord. 4290, § 4, 5-3-2005)

### 5.2.4.2 Late payment charge.

Sec. 2 A customer who has not paid all charges on an account on or before the due date stated on the bill, which due date will be at least fifteen (15) days after the bill is rendered, shall be assessed a late payment charge of ten percent (10%) on any outstanding balance.

(Ord. 4290, § 4, 5-3-2005)

**5.2.4.3 Service call charge.**

Sec. 3 A customer shall pay a service call charge as set forth in the ordinance for any service calls requiring action before the next business day, whether or not the customer requests such service.

(Ord. 4290, § 4, 5-3-2005)

**5.2.4.4 Reconnection charge.**

Sec. 4 When water service is disconnected at any location for any reason, including the non-payment of a bill, a customer must pay a reconnection fee as set forth in the ordinance before the service will be restored. Furthermore, if the service was disconnected due to the non-payment of a bill, the customer must also pay all delinquent charges and a service deposit as authorized by 5.2.4.1 of this Code, before service will be restored.

(Ord. 4290, § 4, 5-3-2005)

**5.2.4.5 Surcharge for a dishonored check, draft, order or like instrument.**

Sec. 5 If a check, draft, order or like instrument tendered to the City of Goshen is dishonored or returned unpaid for any reason, the City may charge and collect from the maker or drawer, or the person for whose benefit the instrument was given, an amount not to exceed Twenty Dollars (\$20.00) plus an amount equal to the actual charge by the depository institution for each returned or dishonored instrument. The charge shall not be considered an interest charge, a finance charge, a time-price differential, or any charge of a similar nature.

(Ord. 4290, § 4, 5-3-2005)

**5.2.4.6 Additional water utility products.**

Sec. 6 Any water utility product needed by a customer of the Goshen Water Utility may be furnished by the Water Utility and billed to the customer at the City's actual cost for the product plus an administrative fee as set forth in the ordinance.

(Ord. 4290, § 4, 5-3-2005)

**5.2.4.7 Recalculation charge.**

Sec. 7 A customer or developer shall pay an administrative fee as set forth in the ordinance if,

due to no fault of the Water Utility, any charge is required to be recalculated due to a change in the size of meter or size of line connection.

(Ord. 4290, § 4, 5-3-2005)

## **Chapter 5 Miscellaneous**

### **5.2.5.1 Payment obligation.**

Sec. 1 Any customer over the age of 18 who occupies a location serviced by the Water Utility and who makes application to the City to have utility charges billed to him or her may be billed those charges directly from the date of application. The person making application to have the utility charges billed to him or her personally is obligated to pay all proper charges made to the account until the customer informs the City in writing of his or her intent to remove his or her name from the account.

(Ord. 4290, § 5, 5-3-2005)

### **5.2.5.2 Owner's right to examine records.**

Sec. 2 The owner of a location in which the utility bill is sent to a person other than the owner shall have the right to examine the collection records of the Water Utility during regular business hours for the purpose of determining whether charges have been paid.

(Ord. 4290, § 5, 5-3-2005)

## **Chapter 6 Reasonable Return**

### **5.2.6.1 Reasonable return.**

Sec. 1 In accordance with Indiana Code 8-1.5-3-8, it is the intent of the Common Council that the rates and charges for the use of services rendered by the Goshen Water Utility produce an income sufficient to maintain the utility property in sound physical and financial condition to render adequate and efficient services. Further, the rates and charges shall be sufficient to include a reasonable return on the Goshen Water Utility plant.

(Ord. 4290, § 6, 5-3-2005)

## **Chapter 7 Payment in Lieu of Property Taxes**

### **5.2.7.1 Payment in lieu of property taxes.**

Sec. 1 In accordance with Indiana Code 8-1.5-3-8(g), the Common Council elects to transfer to

the City's general fund a payment in lieu of taxes from the rates and charges of the Goshen Water Utility in an amount sufficient to compensate the City for taxes that would be due the City on the Goshen Water Utility property if the property were privately owned.

(Ord. 4290, § 7, 5-3-2005)

## **Article 3 Goshen Sewer Utility Services**

### **Chapter 1 Purpose and Application**

#### **5.3.1.1 Purpose and application.**

Sec. 1 (a) This Code article is intended to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations for Existing and New Sources of Pollution set forth in 40 CFR 403. The objectives of this Code article are:

- 1) To prevent the introduction of pollutants into the municipal waste water system which will interfere with the operation of the system or contaminate the resulting biosolids;
- 2) To prevent the introduction of pollutants into the municipal waste water system which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- 3) To improve the opportunity to recycle and reclaim waste waters and biosolids from the system;
- 4) To provide for equitable distribution of the cost of the municipal waste water system;
- 5) To enable the City of Goshen to comply with its NPDES permit conditions, biosolids use and disposal requirements and any other federal or state laws to which the POTW is subject; and
- 6) To establish other regulations governing the connection to and services provided by the City of Goshen's Sewer Utility.

(b) This Code article provides for the regulation of direct and indirect dischargers to the municipal waste water system through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting, assumes that existing customer's capacity will not be preempted, and provides for the equitable distribution of costs resulting from the program.

(c) This Code article shall apply to persons or entities within the jurisdiction of the City of Goshen's Sewer Utility.

(Ord. 4333, §§ 1.01 to 1.04, 12-20-2005)

## Chapter 2 Regulations

### 5.3.2.1 General regulations.

Sec. 1 (a) It shall be unlawful for any person to place, deposit, or permit to be deposited in an unsanitary manner upon public or private property in any area under the jurisdiction of the City of Goshen's Sewer Utility, any human excrement, garbage, or other objectionable waste.

(b) It shall be unlawful for any person or entity to discharge to any natural outlet or to any storm sewer in any area under the jurisdiction of the City of Goshen's Sewer Utility, any sanitary sewage, process water, industrial waste, or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Code article. Such discharges must meet all applicable federal, state and local laws and regulations.

(c) No person or entity shall discharge or cause to be discharged any stormwater, surface water, ground water, roof runoff, subsurface drainage, non-contact cooling water or other unpolluted water to any sanitary sewer, except by permission of the Goshen Board of Public Works and Safety. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers or to a natural outlet approved by the Board of Public Works and Safety. Industrial non-contact cooling water may be discharged to a storm sewer or natural outlet only upon approval of the Board of Public Works and Safety. Such discharges shall meet all applicable federal, state and local laws and regulations.

(d) No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of an enforcement action under this Code article.

(e) It shall be unlawful for any person or entity to construct or maintain any privy, privy vault, septic tank, cesspool or other facilities intended or used for the disposal of sewage, except as otherwise provided in this Code article.

(f) The owner of a dwelling, building, or property used for human occupancy, employment, recreation or other purposes in which there is now located or may in the future be located a public sewer is required at the owner's expense, to install suitable toilet facilities and to connect such facilities directly to the public sewer in accordance with the provisions of this Code article, within ninety (90) days after date of official notice to do so from the City, provided that a public sewer is within three hundred feet (300') of the owner's property line.

(g) The owner of a dwelling, building, or property used for human occupancy, employment, recreation, or other purposes shall operate and maintain any private sewage disposal facilities in a

sanitary manner at all times, at no expense to the City.

(h) Where a public sanitary or combined sewer is not available under the provisions of 5.3.2.1 (f) above, the building sewer shall be connected to a private sewage disposal system complying with all recommendations of the Indiana State Board of Health.

(i) At such times as a public sewer becomes available to a property served by a private sewage disposal system as provided in 5.3.2.1 (h) above, and upon receipt of the official notice as provided in 5.3.2.1 (f), above, a direct connection shall be made to the public sewer in compliance with this Code article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned within ninety (90) days after the date of the official notice.

(j) No unauthorized person shall uncover, make any connections with or cut an opening into, alter or disturb any public sewer or appurtenance without first obtaining a building construction permit and paying all applicable fees as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges".

(Ord. 4333, §§ 2.01 to 2.10, 12-20-2005)

## **Chapter 3 Construction and Connection Requirements**

### **5.3.3.1 General connection rights.**

Sec. 1 (a) A person shall have the right to connect a building located within the Goshen corporate limits to the City's sewer system pursuant to this Code section and upon payment of a sewer connection fee as set forth in the ordinance "Goshen Sewer Utility Schedule of Rates and Charges".

(b) The owner of a building located outside the Goshen corporate limits may not connect the building to the City's sewer system unless the owner of the affected real estate executes an Agreement with the City of Goshen and the Agreement has been approved by the Common Council.

(Ord. 4333, §§ 3.01 and 3.02, 12-20-2005)

### **5.3.3.2 Building Sewer Construction and Maintenance.**

Sec. 2 (a) The owner of a lot, building, or parcel of real estate shall make application on a form furnished by the City of Goshen to construct a building sewer. The building sewer construction permit application shall be supplemented by any plans, specifications or other information considered pertinent by the Superintendent.

(b) A building sewer construction permit fee as set forth in the ordinance entitled "Goshen Sewer

Utility Schedule of Rates and Charges” shall be paid at the time an application to construct a building sewer is made. The building sewer construction permit shall be paid to the Goshen Utilities Office. The building sewer construction permit is valid for a period of ninety (90) days after its issuance.

(c) The owner of a lot, building or parcel of real estate shall pay for all costs of constructing the building sewer in accordance with specifications approved by the Goshen Engineering Department. The Building sewer shall be inspected and approved by the Goshen Sewer Department. The owner shall pay the Goshen Utilities Office an inspection fee as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges”.

(d) After the issuance of a building sewer construction permit to single-family residence or duplex, inspection and approval of the building sewer by the Goshen Sewer Department, and payment of the inspection fee, the City will assume the repair of the building sewer except routine maintenance, cleaning to remove items placed in the building sewer by the owner and/or occupants of the building, or occasional cleaning to eliminate obstructions such as tree roots. The owner shall retain the duty to monitor the building sewer and promptly notify the City of any needed repair or malfunction. The City’s obligation for repair or maintenance shall cease at the exterior wall of any building. The owner will be responsible for maintenance and repair inside any building to and including the exterior wall of any building.

(e) The City does not assume and is not obligated for the repair or maintenance of any building sewer for any industrial, commercial or other non-residential use. The City does not assume and is not obligated for the repair or maintenance of any building sewer or private main which services more than two (2) residential units and/or buildings unless each such residential unit or building is separately metered and is a separate and distinct customer account of the Goshen Sewer Utility.

(f) All residential accounts of the Goshen Sewer Utility, except those accounts which provide service to more than two (2) residential units or buildings will include a monthly building sewer repair fee as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges”. No such charge will be assessed to industrial, commercial or other non-residential customer accounts, or residential customer accounts that serve more than two (2) residential units and /or buildings.

(g) As a prerequisite for making a claim for the repair of a building sewer, the building owner must pay the Goshen Utilities Office a building sewer claim fee as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges”. In return, the City Sewer Utility will clean and televise the building sewer and make all required repairs to the building sewer unless such repairs result from an inappropriate use of the sewer by the building owner and/or occupants of the building. City’s obligation to repair the building sewer begins immediately outside the exterior wall of

the building. City assumes no obligation for any defect inside the building. City assumes no obligation to monitor or inspect the building sewer for maintenance problems and assumes no obligation for routine maintenance of the building sewer. City will respond only upon notice of a problem from the party in whose name the sewer bill is maintained.

(h) If the owner of the building elects to do so, the building owner may inform the City Sewer Utility of a suspected problem with a building sewer and have a plumber televise and clean the building sewer and report their findings to the City. If the plumber used is bonded and approved by the Goshen Sewer Utility, this will eliminate the need to pay the Goshen Utilities Office a building sewer claim fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges".

(i) The owner of a lot, parcel of real estate or any building other than a single-family residence or duplex shall be responsible for all maintenance of the building sewer. The City's obligation for maintenance shall commence at the sewer main.

(j) The owner of a lot, building or parcel of real estate shall install at the owner's expense a check valve or other device approved by the Superintendent to prevent back flows into any building. The owner shall be responsible for all damage resulting from any back flow of sewage into any building unless such damage could not be reasonably prevented by a properly working check valve and was caused by negligent maintenance of the building sewer after proper notification of a defect by the owner to the Superintendent or by a negligently maintained sewer main.

(k) All costs and expenses incidental to the installation and connection of the building sewer to the City's sewer main shall be borne by the owner. If there is no lateral sewer available to connect to the lot, building or parcel of real estate, the owner shall be responsible for all costs for connection to the public sewer in addition to the City's building sewer connection fee except for residential owners who then owe the residential sewer connection fee when a lateral installation is required.

(l) The owner or the person installing the building sewer for the owner shall indemnify the City from any loss or damage that may be directly or indirectly occasioned by the installation.

(m) Each building used for residential, commercial or industrial purposes connected to the Sewer Utility's sewer system must be connected directly to a public sewer main by a separate and independent building sewer line unless otherwise approved in writing by the Board of Public Works and Safety. The Board of Public Works and Safety may approve, in writing, sewer service to a second building on a single zoning lot to be connected through the primary building's sewer service if the Board of Public Works and Safety finds that the two buildings have the same ownership and that one of the buildings is subordinate and serves the principal building on the zoning lot. The Board of

Public Works and Safety must condition the approval upon a requirement for the second building to connect its sewer service directly to the public sewer main if the zoning lot is divided so that the two buildings are not on the same zoning lot and the ownership of the two buildings does not remain the same. The sewer service for the two buildings may not be separately metered.

(n) The building sewer shall be constructed of polyvinyl chloride (PVC) pipe schedule 40 for four inch (4") lines and standard dimension ratio (SDR) 35 for six inch (6") and larger, ASTM specification or equal, or other suitable materials approved by the Superintendent. Joints shall be tight and waterproof. Any part of the building sewer that is located within ten feet (10') of a water service pipe shall be constructed with polyvinyl chloride (PVC) pipe standard dimension ratio (SDR) 21 or other water grade pipe suitable to the Superintendent. If the sewer is installed in filled or unstable ground, the building sewer shall be of ductile iron pipe, except that non-metallic material may be accepted if laid on a suitable concrete bed or cradle as approved by the Superintendent.

(o) All joints between different pipe materials shall be made with approved joining material and installed in accordance with the latest edition of the Indiana Plumbing Code. Alternate joining materials and methods may be used only if approved by the Superintendent.

(p) The size and slope of the building sewers shall be subject to the approval of the Superintendent but in no event shall the slope be less than one-eighth inch (1/8") per one foot (1').

(q) Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. No building sewer shall be laid parallel to or within three feet (3') of any bearing wall which might be weakened. The depth shall be sufficient to afford protection from frost, but not less than three feet (3'). The building sewer shall be laid at a uniform grade and in straight alignment in so far as possible. Change in direction shall be made only with proper fittings not greater than forty-five (45) degrees. (Acceptable fitting bends are eleven and one-quarter (11.25) degrees, twenty-two and one-half (22.5) degrees, and forty-five (45) degrees.) Pipe shall not have any adverse grades.

(r) In all buildings in which a building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such drains shall be lifted by the artificial means approved by the Superintendent and discharged into the building sewer.

(s) All excavations required for the installation of a building sewer shall be open trench work unless otherwise approved by the Superintendent. Pipe laying and backfill shall be performed in accordance with ASTM specifications except that no backfill shall be placed until the work has been inspected by the Superintendent or his representatives.

(t) All excavations required for the installation of a building sewer shall be adequately guarded with

barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored in a manner consistent with the right-of-way cut permit.

(Ord. 4333, § 3.03, 12-20-2005)

### **5.3.3.3 Building Sewer Connection to Sewer Main.**

Sec. 3 (a) The owner of a lot, building or parcel of real estate shall make application on a form furnished by the City of Goshen to connect the building sewer to the sewer main and to discharge sewage into the sanitary sewer system.

(b) A building sewer construction permit fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" shall be paid at the time an application to construct a building sewer is made or at the time an application to connect the building sewer to the sewer main is made, whichever occurs first. The building sewer construction permit fee shall be paid to the Goshen Utilities Office. The building sewer construction permit is valid for a period of ninety (90) days after issuance.

(c) In the event that either the building sewer is connected to the public sewer or sewage is first discharged into the City's sanitary sewer system after the expiration of the building sewer construction permit, the City shall charge the owner of the lot, building or parcel of real estate the sewage flat rate based on the monthly sewer rates and charges for unmetered customers as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" from the date of the expiration of the building sewer construction permit unless the owner can clearly establish the date upon which the City's sewer system was first used, in which case the City shall charge the owner of the lot, building or parcel of real estate one and one-half (1½) times the sewage flat rate based on the monthly sewer rates and charges for unmetered customers as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" beginning on such established date.

(d) The connection of the building sewer to the public sewer shall be made using a saddle connection. Service connections into thin wall main line sewers twenty-four inches (24") diameter, or smaller shall use a service saddle with double stainless steel straps. Service connections into concrete mainline sewers twelve inches (12") diameter and larger shall use a Kor-N-Tee connector, or approved equal. Special fittings may be used for the connection only when approved by the Superintendent.

(e) The applicant for the building sewer construction permit shall notify the Superintendent when the building sewer is ready for inspection and connection to the public sewer. At least forty-eight (48)

hours prior notice shall be given to allow the Superintendent to schedule a time for inspection and supervision of connection. The connection shall be made under the supervision of the Superintendent or a representative.

(Ord. 4333, § 3.04, 12-20-2005)

#### **5.3.3.4 Combined Sewers.**

Sec. 4 The construction of new combined sewers are prohibited.

(Ord. 4333, § 3.05, 12-20-2005)

#### **5.3.3.5 Sewer Connection Fee.**

Sec. 5 (a) The owner of a lot, building or parcel of real estate shall pay a sewer connection fee for each connection made to the City's sewer system. The sewer connection fee is required for each connection, regardless if the connection is made to a public sewer main or to a privately-owned sewer line that then connects to a public sewer main. A sewer connection fee may be waived in whole or in part only upon the approval of the Common Council.

(b) Residential Connection Fee. The City of Goshen will assess a sewer connection fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" to the owner of a lot, building or parcel of real estate which is in a residential zone for connection of the building sewer, either directly or indirectly, into the public sewer.

(c) Non-Residential Connection Fees.

- 1) The City of Goshen will assess the owner of any parcel of real estate which is not in a residential zone a sewer connection fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges". The initial connection to the City's sewer system for a parcel of real estate shall be based on an established rate per square foot of the entire parcel of real estate to be serviced, excluding those areas that are part of the road right-of-way or utility easements. The owner of a parcel of real estate that has already paid an initial sewer connection fee based on the rate per square foot shall be charged a subsequent sewer connection fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" for each additional or subsequent connection for the same parcel of real estate.
- 2) In addition to the non-residential connection fee, the owner of the parcel of real estate shall also pay the cost of extending the sewer collection system to the owner's parcel of real estate. Extending the sewer collection system shall include extending the sewer main from

the City's existing sewer main, constructing new lift stations, upgrading lift stations, construction of forced mains and construction of manholes where needed.

- 3) The owner of the parcel of real estate shall receive a credit against the sewer connection fee equal to the lesser of the actual cost of extending the sewer collection system or the estimated cost of extending the sewer collection system to the owner's real estate. The estimated cost of extending the sewer collection system must be submitted to the Goshen Engineering Department prior to construction. If the Goshen Engineering Department believes that the estimated cost of extending the sewer collection system substantially exceeds the cost that the City would incur if the City bid the construction of the sewer collection system extension, the City may elect to construct the extension at City's expense rather than grant the credit. If no estimate is submitted to the Goshen Engineering Department prior to the construction, the credit against the sewer connection fee can only be granted with the approval of the Board of Public Works and Safety, and then only for seventy-five percent (75%) of the actual construction cost.

(d) The sewer connection fee is in addition to the fee charged to reimburse the City for its costs in furnishing the meter. The fees for the meter cannot be waived.

(Ord. 4333, § 3.06, 12-20-2005)

#### **5.3.3.6 Inspections Required.**

Sec. 6 (a) Prior to constructing a building sewer or making a connection to the City's sewer system, the owner shall pay an inspection fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges".

- 1) In the event that more than one (1) connection is inspected on a single parcel of real estate at the same time, the Goshen Utilities Office may elect to charge a single inspection fee.

(b) If a reinspection is required due to the improper installation of the sewer main or building sewer, the owner shall pay a reinspection fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges".

(c) If at the time of the inspection, the sewer main or building sewer to be inspected is not sufficiently exposed to allow inspection, the owner will uncover the sewer main or building sewer to allow for an adequate inspection. A reinspection fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" will be assessed to the owner.

- (d) Except as provided in 5.3.3.6 (a) 1) above, the inspection fee cannot be waived.

(Ord. 4333, § 3.0 7, 12-20-2005)

**5.3.3.7 Unauthorized Connection.**

Sec. 7 A customer shall not connect a building sewer into the City's sewer system until such time as the City of Goshen has been notified and is available to inspect and/or supervise the connection. A person connecting a building sewer to the City's sewer system without the knowledge and consent of the City shall be charged a fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" for the unauthorized connection unless the sewer utility can establish that a greater fee should be charged by applying the schedule of rates and charges.

(Ord. 4333, § 3.08, 12-20-2005)

**5.3.3.8 Building Sewer Line Inspection Upon Change in Ownership.**

Sec. 8 (a) Before the ownership of real estate upon which a building has been constructed is transferred to a new owner, the party transferring ownership shall notify the Superintendent of the party's intent to transfer title.

(b) Within twenty (20) days of such notification, the Goshen Sewer Department shall conduct an inspection of the building sewer line or waive the right to do so.

(c) The party transferring ownership shall grant the Goshen Sewer Department access to building and real estate so that the Sewer Department can conduct a thorough inspection of the building sewer line and lateral sewer.

(d) The inspection shall be conducted without cost. The inspection may include the televising and recording the condition of the lateral sewer and/or building sewer line. It may also include a visual inspection to determine if any sump pumps, foundation drains, down spouts or other prohibited connections are made to the sanitary sewer system.

(e) If any sump pumps, foundation drains, down spouts or other prohibited connections are found, the owner of the real estate shall immediately have the sump pump, foundation drain, down spout or other prohibited connection disconnected from the sanitary sewer system. The disconnection from the sanitary sewer system will not relieve the owner from any enforcement actions of this Code chapter or any other chapter of this Code article, any other City ordinance, or any other state or federal statute or regulation.

(f) If the Goshen Sewer Department finds that a building sewer line or lateral sewer are in need of repair, the Sewer Department shall make arrangements to make such repairs within a reasonable time given the weather conditions and other demands on Sewer Department.

(g) The Superintendent shall issue a transfer permit under the following conditions:

- 1) If the Goshen Sewer Department waives the inspection. The Sewer Department may waive the inspection if an inspection has occurred within five (5) years although the Sewer Department is not required to waive the inspection if an inspection has occurred within the five (5) year period.
- 2) The inspection discloses that there are no prohibited connections.
- 3) The party requesting transfer of ownership proves that all described prohibited connections have been disconnected from the City's sanitary sewer system.

(h) City Water Utility and Sewer Utility shall refuse to transfer any water or sewer service to a new owner until evidence of the inspection or waiver from the Sewer Departments is presented.

(i) Any party transferring real estate who fails or refuses to have the real estate inspected before the transfer of the real estate violates this Code article and is subject to enforcement under 5.3.14 of this Code.

(Ord. 4333, § 3.09, 12-20-2005)

#### **5.3.3.9 Sewer Connection Fee Fund.**

Sec. 9 The non-reverting Sewer Connection Fee Fund is continued. All sums collected pursuant to this Code section shall be deposited into this fund. This fund may be used to pay for expenses incurred by the City for extending the sewer mains, improving or expanding any component of the collection system, the construction or improvement of lift stations or engineering studies relating to the impact proposed expansions may have on the sewer collection system. Any new infrastructure constructed with monies deposited into the fund from 5.3.3.5 (c) of this Code.

(Ord. 4333, § 3.10, 12-20-2005)

## **Chapter 4 Discharge Prohibitions**

#### **5.3.4.1 General Discharge Prohibitions.**

Sec. 1 (a) The following prohibitions apply to all users of the POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements. A user shall not contribute or cause to be contributed, directly or indirectly, the following substances to the POTW:

- 1) Any pollutant or waste water which will cause interference with or pass through.

- 2) Any substances which by reason of their nature or quantity may create a fire or explosion hazard or be injurious to the POTW or to the operation of the POTW, including but not limited to, waste streams with closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Centigrade) using the test methods specified in 40 CFR 261.21. At no time shall two (2) successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the City, the state or EPA has notified the user is a fire hazard or a hazard to the system.
- 3) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the waste water treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch ( $\frac{1}{2}$ " ) in any dimension, animal tissue, paunch, manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubrication oil, mud, or glass grinding or polishing wastes.
- 4) Any waste water having a pH less than 6.0 or greater than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the POTW unless approved in writing by the Superintendent.
- 5) Any waste water containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any waste water treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act.
- 6) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- 7) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to

- interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with biosolids use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the biosolids management method being used.
- 8) Any substance which will cause the POTW to violate its NPDES and/or Land Application Permit or the receiving water quality standards.
  - 9) Any waste water with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
  - 10) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceed forty (40) degrees Centigrade (one hundred four (104) degrees Fahrenheit) unless the Indiana Department of Environmental Management, upon request of the POTW, approves alternate temperature limits.
  - 11) Any waste water containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable state or federal regulations.
  - 12) Any waste water which causes a hazard to human life or creates a public nuisance.
  - 13) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts greater than as allowed in 5.3.4.4 (b) of this Code that will cause interference or pass through.
  - 14) 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.
  - 15) Any trucked or hauled waste water, except that which is approved by the Superintendent in a waste hauler discharge permit.
  - 16) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted industrial waste water, unless specifically authorized by the Superintendent.
  - 17) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
  - 18) Any medical wastes, except as specifically authorized by the Superintendent in a significant

industrial user discharge permit.

19) Any waste water causing the treatment plant's effluent to fail a toxicity test.

20) Any wastes containing detergents, surface active agents (surfactants) or other substances which may cause excessive foaming in the POTW.

(b) Wastes prohibited by this Code section shall not be processed or stored in such a manner that they could be discharged to the POTW through spills or accidental discharges. All floor drains located in process or storage areas must discharge to the industrial user's pretreatment facility or approved containment facility before connecting with the POTW.

(c) When the Superintendent determines that a user is contributing to the POTW any of the above enumerated substances in such amounts as to interfere with the operation of the POTW, the Superintendent shall:

- 1) Advise the user of the impact of the contribution on the POTW, and
- 2) Develop effluent limitations for such user to correct the interference with the POTW.

(Ord. 4333, §§ 4.01 to 4.03, 12-20-2005)

#### **5.3.4.2 Process or stored wastes.**

Sec. 2 Wastes prohibited by this Code section shall not be processed or stored in such a manner that they could be discharged to the POTW through spills or accidental discharges. All floor drains located in process or storage areas must discharge to the industrial user's pretreatment facility or approved containment facility before connecting with the POTW.

(Ord. 4333, § 4.02, 12-20-2005)

#### **5.3.4.3 Correction for prohibited discharges.**

Sec. 3 When the Superintendent determines that a user is contributing to the POTW any of the above substance set forth in 5.3.4.1 of this Code in such amounts as to interfere with the operation of the POTW, the Superintendent shall:

- 1) Advise the user of the impact of the contribution on the POTW, and
- 2) Develop effluent limitations fro such user to correct the interference with the POTW.

(Ord. 4333, § 4.03, 12-20-2005)

**5.3.4.4 Supplementary limitations.**

Sec. 4 (a) Unless otherwise limited or authorized by the Board of Public Works and Safety and incorporated into a discharge permit, no user shall discharge waste water containing concentrations of the following pollutants, exceeding the following values (daily maximum):

<u>Pollutant</u>	<u>Concentration</u>
1) pH .....	6.0 to 9.0 units
2) Arsenic.....	0.07 mg/l
3) Cadmium .....	0.12 mg/l
4) Chromium (Hexavalent).....	0.25 mg/l
5) Chromium (Total).....	2.50 mg/l
6) Chloride .....	20.00 mg/l
7) Copper.....	2.00 mg/l
8) Cyanide (t) .....	0.25 mg/l
9) Lead.....	0.50 mg/l
10) Mercury.....	0.0006 mg/l
11) Nickel.....	2.70 mg/l
12) Phenols.....	1.00 mg/l
13) Selenium.....	0.75 mg/l
14) Silver.....	0.20 mg/l
15) Zinc.....	2.50 mg/l
16) TTO.....	1.50 mg/l

(b) Unless otherwise limited or authorized by the Board of Public Works and Safety and incorporated into a discharge permit, users may discharge waste water containing the following pollutants but are subject to surcharges pursuant to 5.3.18.8 of this Code for concentrations (in mg/l) above those listed:

<u>Pollutant</u>	<u>Concentration</u>
1) BOD5.....	200.00 mg/l
2) TSS.....	200.00 mg/l
3) Ammonia.....	30.00 mg/l
4) Phosphates.....	10.00 mg/l
5) Free Oil and Grease (FOG).....	200.00 mg/l
6) Hydrocarbon Oil and Grease.....	100.00 mg/l

(c) Concentrations apply at the point where the industrial waste is discharged to the POTW. All concentrations for metallic substances are for "total" metals unless indicated otherwise. The Superintendent may, at the Superintendent's discretion, impose mass based limitations in addition to or in place of the concentration based limitations above.

(Ord. 4333, § 4.04, 12-20-2005)

**5.3.4.5 Dilution.**

Sec. 5 No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the federal categorical pretreatment standards, or in any other pollutant specific limitation developed by the City or state.

(Ord. 4333, § 4.05, 12-20-2005)

**Chapter 5 Pretreatment Requirements****5.3.5.1 Pretreatment requirements.**

Sec. 1 (a) Users whose discharge exceeds prohibitions outlined in 5.3.4 of this Code, shall provide necessary waste water treatment as required to comply with this Code article and shall achieve compliance with all federal categorical pretreatment standards within the time limitations as specified by the federal pretreatment regulations, and with any other pretreatment standards by applicable deadlines.

(b) Any facilities or equipment required to pretreat waste water shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City of Goshen for review, and shall be approved by the City of Goshen before construction of the facility. The review and approval of plans and operating procedures does not relieve the user from complying with the provisions of this Code article and permit conditions. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and approved by the City of Goshen prior to the user's initiation of the changes.

(c) Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain waste water be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this Code article.

(d) Any user discharging into the POTW greater than twenty-five thousand (25,000) gallons per day of process waste water or greater than five percent (5%) of the average daily flow in the POTW, whichever is lesser, may be required to install and maintain, on his property and at the user's expense, a suitable storage and flow control facility to insure equalization of flow over a twenty-four (24) hour period. Said facility shall have a capacity for at least twenty percent (20%) of the daily discharge volume and shall be equipped with alarms and a rate of discharge controller, the regulation of which shall be directed by the Superintendent. A waste water discharge permit may be issued to

any user solely for flow equalization.

(e) Any commercial user who sells food to be consumed on-site or prepares food for sale or for consumption must install grease, oil and sand interceptors. New food service facilities shall have interceptors in place prior to operation. All existing interceptors shall be properly maintained and in good working order.

- 1) All interceptors shall be of a type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. All new facilities shall install exterior grease interceptors unless the Board of Public Works and Safety approves in writing an alternate solution. All existing facilities shall install an exterior grease interceptor within three (3) years unless the Board of Public Works and Safety approves in writing an alternate solution or extends the deadline. All interceptors shall be installed in either the building sewer in accordance with the latest edition of the Indiana Plumbing Code, and shall be sized by a licensed engineer, where the Superintendent has determined that any one (1) of the following conditions exist:

(A) abnormal maintenance or cleaning of the sewer has been required to prevent the occurrence or recurrence of blockages, back-ups, etc. and evidence indicates that this abnormal maintenance is the result of the discharge of prohibited wastes and/or wastes in excess of the limitations as established in 5.3.4 of this Code.

(B) there exists a concentration of users discharging prohibited wastes into a public sewer without the benefit of any grease or sand trap.

(C) the results of laboratory analysis have demonstrated that the strength of wastes being discharged into the public sewer are in excess of the limitations as established in 5.3.4 of this Code.

- 2) Failure to install an interceptor when required or failure to inspect, clean and repair any interceptor as required may result in fines and penalties as outlined in 5.3.14 of this Code.
- 3) The Board of Public Works and Safety may, upon application and proof of economic hardship or other reason, extend the time within which said exterior grease interceptor may be installed.

(f) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(g) Industrial users shall provide and maintain in safe and proper condition, at their own expense, facilities to allow the authorized representatives of the POTW, EPA or the state to inspect, sample or

measure discharges subject to regulation pursuant to this Code article. There shall be ample space in or near such facilities to allow accurate sampling and preparation of samples for analysis.

(Ord. 4333, §§ 5.01 to 5.07, 12-20-2005)

## **Chapter 6 Spill Prevention and Slug Control Plans**

### **5.3.6.1 Spill prevention and slug control plans.**

Sec. 1 (a) Users shall provide protection from accidental discharge of materials which may interfere with or pass through the POTW by developing spill prevention plans. Such plans shall include, at a minimum, procedures for adequately containing accidental spills, responding to accidental spills and updated lists of contact persons which shall be posted in prominent locations. Users shall also develop best management plans to minimize the potential for accidental spills. Facilities necessary to implement these plans shall be provided and maintained at the user's expense. Spill prevention plans, including the facilities and operating procedures shall be approved by the Superintendent before construction of the facility.

(b) Users who store hazardous substances shall not contribute to the POTW after the effective date of this Code article unless and until a spill prevention plan has been approved by the Superintendent. Approval of such plans shall not relieve the user from complying with all other laws and regulations governing the use, storage, transportation, and disposal of hazardous substances.

(c) The POTW shall evaluate each significant industrial user at least once every two (2) years, and other users as necessary, to determine whether such user requires a plan to control slug discharges. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- 1) Description of discharge practices, including non-routine batch discharges;
- 2) Description of stored chemicals;
- 3) Procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate a prohibition under 5.3.4 of this Code, with procedures for follow-up written notification within five (5) days;
- 4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(Ord. 4333, §§ 6.01 and 6.03, 12-20-2005)

## **Chapter 7 Notice of Discharge**

### **5.3.7.1 Notification.**

Sec. 1 (a) In the case of any discharge in violation of this Code article or permit conditions, and in the case of any discharge that could cause problems to the POTW, including any slug loadings, the user shall immediately notify the Goshen Waste Water Treatment Plant of the discharge by telephone. The notification shall include:

- 1) The date, time location and duration of the discharge;
- 2) The type of waste, including concentration and volume; and
- 3) Any corrective actions taken by the user.

(b) Within five (5) days following such a discharge, the user shall submit a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.

(c) Such notification shall not relieve the user of any expense, loss, damage, or other liability resulting from the discharge, nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed under this Code article or other applicable state or federal law.

(d) Failure to notify the City of Goshen of potential problem discharges shall be deemed a separate violation of this Code article.

(Ord. 4333, §§ 7.01 to 7.04, 12-20-2005)

### **5.3.7.2 Employee notification.**

Sec. 2 The user shall permanently post a notice in a prominent place advising all employees when to call in the event of a dangerous discharge for which notification is required. Employers shall advise all employees who may cause or be injured by such a discharge of the emergency notification procedure.

(Ord. 4333, § 7.05, 12-20-2005)

## **Chapter 8 Hauled Waste Water**

### **5.3.8.1 Hauled waste water.**

Sec. 1 (a) Hauled waste water, such as septic tank waste or other holding tank waste from a

commercial waste hauler may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the Superintendent, provided such wastes do not violate the provisions of this Code article or any other requirements established by the City of Goshen, and provided that the commercial waste hauler obtains a waste hauler discharge/vehicle permit.

(b) The Superintendent shall have the authority to prohibit the disposal of any hauled waste water, such as septic tank waste or other holding tank waste from a commercial waste hauler if such disposal would interfere with or pass through the treatment plant operation or if such wastes fail toxicity testing or contain hazardous wastes as defined by RCRA, SWDA, CERCLA, TSCA or other federal, state or local regulations.

(c) Any waste trucked into the Waste Water Treatment Plant is subject to sampling and analysis by the City of Goshen. All samples shall be analyzed according to methods set forth in 40 CFR 136 or any other EPA approved method, and any such analysis shall be paid by the waste hauler in accordance with the fees as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges".

(d) A pretreatment charge as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" will be charged for each gallon of septic tank waste delivered to the Waste Water Treatment Plant for treatment and disposal

(e) Each vehicle of the commercial waste hauler that is permitted to discharge at the Waste Water Treatment Plant under a waste hauler discharge/vehicle permit will be issued a sticker by the City. This sticker must be displayed on the vehicle and must be valid. Any additional vehicle included on the same waste hauler discharge/vehicle permit will be assessed a fee as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" for each additional vehicle. No permit or sticker will be issued until all associated fees are paid.

(Ord. 4333, §§ 8.01 to 8.05, 12-20-2005)

## **Chapter 9 Discharge Permits**

### **5.3.9.1 Discharge Permit Required.**

Sec. 1 The following users must obtain the type of discharge permit described below prior to discharging any waste water into the City of Goshen's POTW:

- 1) Any significant industrial user must obtain a significant industrial user discharge permit.
- 2) Any commercial waste hauler must obtain a waste hauler discharge/vehicle permit.

- 3) Any commercial user who sells food to be consumed on-site or prepares food for sale or for consumption must obtain a food service discharge permit.

(Ord. 4333, § 9.01, 12-20-2005)

#### **5.3.9.2 Extra Jurisdictional Users.**

Sec. 2 5.3.9 of this Code applies to customers of the City waste water utility even if such customers are located outside the corporate limits of the City of Goshen.

(Ord. 4333, § 9.01, 12-20-2005)

#### **5.3.9.3 Obligation to comply.**

Sec. 3 Obtaining a discharge permit does not relieve the permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other federal, state or local law.

(Ord. 4333, § 9.01, 12-20-2005)

#### **5.3.9.4 Time period to obtain discharge permit.**

Sec. 4 (a) Any existing user who is required by 5.3.9.1, 5.3.9.2 and 5.3.9.3 above to obtain a discharge permit who does not currently have a discharge permit, must apply to the City of Goshen for a discharge permit within ninety (90) days of the effective date of this Code article.

(b) Any existing user who currently has a discharge permit shall make application for a renewal of the discharge permit ninety (90) days before the current permit expires.

(c) Any new user who is required by 5.3.9.1, 5.3.9.2 and 5.3.9.3 above to obtain a discharge permit must obtain a discharge permit prior to beginning the discharge which requires the permit.

(Ord. 4333, § 9.02, 12-20-2005)

#### **5.3.9.5 Waste water survey.**

Sec. 5 When requested by the Superintendent, users must submit information on the nature and characteristics of their waste water by completing a waste water survey questionnaire prior to commencing their discharge. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this survey. Failure to complete this survey shall be reasonable grounds for terminating service to the user and shall be considered a violation of this Code article.

(Ord. 4333, § 9.03, 12-20-2005)

**5.3.9.6 Discharge permit application contents.**

Sec. 6 (a) Users required to obtain a discharge permit shall complete and file with the City, an application on a form prescribed by the City, and accompanied by a permit fee for the applicable discharge permit as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges". This fee shall include the charge for inspections and permit reviews performed during the duration of the discharge permit.

(b) In support of the application, the user shall submit their:

- 1) Name, address, and location (if different from the address), and name of owners and operator; and
- 2) Any other information as may be deemed by the City to be necessary to evaluate the permit application.

(c) In addition to information required of all users required to obtain a discharge permit, a significant industrial user shall submit the following information:

- 1) SIC number according to the "Standard Industrial Classification Manual", Bureau of the Budget, (1972), as amended;
- 2) Waste water constituents and characteristics, including but not limited to those mentioned in 5.3.20 (a) 54) of this Code article as determined by an EPA approved analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR 136, as amended;
- 3) Time and duration of discharge;
- 4) Average daily and thirty (30) minute peak waste water flow rates, including daily, monthly and seasonal variations, if any;
- 5) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation and a current water use schematic;
- 6) Description of activities, facilities and plant processes on the premises including all materials which are or could be discharged;
- 7) The nature and concentration of any pollutants in the discharge which are limited by any City, state or federal pretreatment standards, and a statement signed by an authorized

- representative of the user and certified by a qualified professional regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- 8) 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 shall be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:
- (A) the schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
  - (B) no increment referred to in 5.3.9.6 (a), 8), (A) above shall exceed nine (9) months.
  - (C) not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Superintendent including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.
- 9) Each product and/or byproduct produced by type, amount, process or processes and rate of production;
- 10) Type and amount of raw materials processed (average and maximum per day);
- 11) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and
- 12) List of any environmental control permits held by or for the facility.
- (d) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. Within thirty (30) days of receipt of a complete discharge permit application, the Superintendent will determine whether or not to issue a discharge permit. If no determination is made within this time period, the application will be deemed denied. The Superintendent reserves the right

to deny any application for a discharge permit.

(e) All discharge permit applications and user reports must contain the following certification statement and be signed by an authorized representative of the user:

*"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 fines and imprisonment for knowing violations."*

(Ord. 4333, § 9.04, 12-20-2005)

#### **5.3.9.7 Discharge permit contents.**

Sec. 7 Discharge permits shall include such conditions as are reasonably deemed necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate biosolids management and disposal, protect ambient air quality and protect against damage to the POTW. Permits shall contain, as appropriate, the following:

- 1) Statement of duration including issuance and expiration dates;
- 2) Effluent limitations applicable to the user based on applicable standards in federal, state and local law;
- 3) General and specific discharge prohibitions as established by 5.3.4 of this Code;
- 4) Requirements to pay fees for the waste water to be discharged to the POTW;
- 5) Limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- 6) Requirements for installation and maintenance of inspection and sampling facilities;
- 7) Requirements for self-monitoring, sampling, reporting, notification and record keeping. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state or local law;
- 8) Compliance schedules (if applicable);
- 9) Development and implementation of pollution prevention plans to reduce the amount of

- pollutants discharged to the POTW and development and implementation of best management practices to minimize the potential for accidental discharge of pollutants to the POTW;
- 10) Requirements for collecting/retaining and providing access to plant records, including the right of the POTW to copy records, and for providing entry for sampling and inspection;
  - 11) Requirements for notification of any new introduction of waste water constituents or any substantial change in the volume or character of the waste water treatment system;
  - 12) Requirements for notification of spills, potential problems to the POTW including slug loadings, upsets or violations;
  - 13) Requirements for installation, operation and maintenance of pretreatment technology, pollution control or construction of appropriate containment devices, designed to reduce, eliminate or prevent the introduction of pollutants into the POTW;
  - 14) Requirements to develop and implement spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or routine discharges;
  - 15) Other conditions as deemed appropriate by the POTW to ensure compliance with this Code article, state and federal pretreatment standards and requirements;
  - 16) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements;
  - 17) Statement of non-transferability;
  - 18) Statement that compliance with the 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 discharge permit; and
  - 19) Re-opener clause.

(Ord. 4333, § 9.05, 12-20-2005)

#### **5.3.9.8 Discharge permit duration.**

Sec. 8 (a) A significant industrial user discharge permit shall be valid for a specified period of time not to exceed five (5) years.

(b) A waste hauler discharge/vehicle permit shall be valid for a period of three (3) years.

(c) A food service discharge permit shall be valid for a period of one (1) year.

(Ord. 4333, § 9.06, 12-20-2005)

#### **5.3.9.9 Discharge permit modification.**

Sec. 9 (a) The Superintendent may modify the discharge permit for good cause including, but not limited to, the following:

- 1) To incorporate any new or revised federal, state or local pretreatment standards or requirements;
- 2) To address significant alterations or additions to the user's operation, processes or waste water volume or character since the time of discharge permit issuance;
- 3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- 4) Information indicating that the permitted discharge poses a threat to the City's POTW, personnel or the receiving waters;
- 5) Violation of any terms or conditions of the discharge permit;
- 6) Misrepresentations or failure to fully disclose all relevant facts in the discharge permit application or in any required reporting;
- 7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- 8) To correct typographical or other errors in the discharge permit;
- 9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

(b) The filing of a request by the permittee for a discharge permit modification does not stay any discharge permit condition.

(Ord. 4333, § 9.07, 12-20-2005)

#### **5.3.9.10 Discharge permit transfer.**

Sec. 10 (a) Discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least sixty (60) days advance written notice to the Superintendent and the Superintendent approves the discharge permit transfer. The notice must include a written certification by the new owner and/or operator which:

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

(b) Failure to comply with any portion of this Code section renders the discharge permit voidable on the date of the facility transfer.

(Ord. 4333, § 9.08, 12-20-2005)

#### **5.3.9.11 Discharge permit revocation.**

Sec. 11 (a) Discharge permits may be revoked for the following reasons:

- 1) Failure to notify the City of Goshen of significant changes to the waste water prior to the changed discharge;
- 2) Failure to provide prior notification to the City of Goshen of changed condition pursuant to 5.3.11.5 of this Code article;
- 3) Misrepresentation or failure to fully disclose all relevant facts in the discharge permit application;
- 4) Falsifying self-monitoring reports or any other required records;
- 5) Tampering with monitoring equipment;
- 6) Refusing to allow the City of Goshen timely access to the facility premises and records;
- 7) Failure to meet effluent limitations;
- 8) Failure to pay fines or surcharges;
- 9) Failure to pay sewer charges;
- 10) Failure to meet compliance schedules, including reporting dates;
- 11) Failure to complete a waste water survey or the discharge permit application;
- 12) Failure to provide advance notice of the transfer of a permitted facility;
- 13) Violation of any pretreatment standard or requirement, or any terms of the discharge permit or this Code article;
- 14) Failure to comply with any order given by the Board of Public Works and Safety or the Superintendent pursuant to a show-cause hearing or any other administrative order or

enforcement action.

(b) Discharge permits shall be deemed voidable upon nonuse, cessation of operations or transfer of business ownership. All discharge permits are void upon the issuance of a new discharge permit.

(Ord. 4333, § 9.09, 12-20-2005)

### **5.3.9.12 Discharge permit appeals.**

Sec. 12 (a) Any person, including the user, may petition the Board of Public Works and Safety to reconsider the terms of a discharge permit within thirty (30) days of its issuance.

(b) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

(c) In its petition, the appealing party must indicate the discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the discharge permit.

(d) The effectiveness of the discharge permit shall not be stayed pending the appeal.

(e) If the Board of Public Works and Safety fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied.

(f) The City of Goshen shall perform annual reviews of each current discharge permit. These reviews shall be used to determine the current status of the user with regard to operations, discharge rates and other aspects pertaining to the terms of the discharge permit. Discharge permits may be modified or amended following the permit review and petitions may be considered at that time.

(Ord. 4333, § 9.10, 12-20-2005)

## **Chapter 10 Federal Categorical Pretreatment Standards**

### **5.3.10.1 Federal Categorical Pretreatment Standards**

Sec. 1 Upon the promulgation of the federal categorical pretreatment standards for a particular industrial subcategory, the federal standard, if more stringent than limitations imposed under this Code article for sources in that subcategory, shall immediately supersede the limitations imposed under this Code article. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 CFR 403.12.

(Ord. 4333, § 10.01, 12-20-2005)

### **5.3.10.2 Special Agreements**

Sec. 2 The City of Goshen reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with any pretreatment standard or requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the user can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment standard. A user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

(Ord. 4333, § 10.02, 12-20-2005)

## **Chapter 11 Reporting and Monitoring**

### **5.3.11.1 Baseline monitoring reports.**

Sec. 1 (a) Within one hundred eighty (180) days after the effective date of a federal categorical pretreatment standard, or one hundred eighty (180) days after a final administrative decision has been made upon a categorical determination submission in accordance with 40 CFR 403.6(a)(4), whichever is later, industrial users which are existing sources subject to such federal categorical pretreatment standards and currently discharging to the POTW shall submit a baseline report which contains the information listed in 5.3.11.1 (c) below.

(b) New sources, when subject to a federal categorical pretreatment standard, and sources that become industrial users subsequent to the promulgation of an applicable pretreatment standard, shall submit a baseline report which contains the information listed in 5.3.11.1 (c) below at least ninety (90) days prior to commencement of discharge to the POTW. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also be required to provide estimates of its anticipated flow and quantity of pollutants discharged.

(c) The industrial user shall submit the information required by this Code section including:

- 1) Name and address of the facility, including the name of the operator and owners.
- 2) List of any environmental control permits held by or for the facility.
- 3) Brief description of the nature, average rate of production, and SIC of the operation(s) carried

out by such user. This description shall include a schematic process diagram indicating points of discharge to the POTW from the regulated processes.

- 4) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
  - (A) regulated process streams, and
  - (B) other streams as necessary to allow use of the combined waste stream formula as per 40 CFR 403.6(e).
- 5) The industrial user shall identify the federal categorical pretreatment standards applicable to each regulated process, and shall:
  - (A) submit the results of sampling and analysis identifying the nature and concentration of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentrations shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in 5.3.11.8 of this Code.
  - (B) sampling must be performed in accordance with procedures set out in 5.3.11.9 of this Code.
  - (C) the user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this chapter.
  - (D) 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 waste waters are mixed with the regulated waste water prior to pretreatment the user should measure the flows and concentrations necessary to allow the use of the combined waste stream formula of 40 CFR 403.6(e) in order 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 POTW.
- 6) The industrial user shall provide a statement, reviewed by an authorized representative of the industrial user and certified by a qualified professional, indicating whether federal categorical pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance or additional pretreatment is required for the industrial user to meet the federal categorical pretreatment standards.

- 7) If additional pretreatment or operation and maintenance will be required to meet the federal categorical pretreatment standards, the industrial user will provide the shortest schedule which will provide such additional pretreatment or operation and maintenance. The completion date of this schedule shall not be later than the compliance date established for the applicable federal categorical pretreatment standard.
- 8) Where the industrial user's federal categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined waste stream formula (40 CFR 403.6(e)), or net/gross calculations (40 CFR 403.15), at the time the industrial user submits a baseline report, the information required in 5.3.11.1 (c) above shall pertain to the modified limits.
- 9) If the federal categorical pretreatment standard for the industrial user is modified after the baseline report is submitted, the industrial user shall make any necessary amendments to information provided as a response to 5.3.11.1 (c) above and submit them to the POTW within sixty (60) days after the modified limit is approved.
- 10) The following conditions shall apply to any schedule submitted in response to 5.3.11.1 (c) 7) above:
  - (A) the schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable federal categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, etc.).
  - (B) no increment referred to in 5.3.11.1 (c) 10) (A) above shall exceed nine (9) months.
  - (C) not later than fourteen (14) days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the POTW.
- 11) Such other information as may be reasonably requested by the POTW.

(Ord. 4333, § 11.01, 12-20-2005)

**5.3.11.2 Report on compliance with federal pretreatment standards deadline.**

Sec. 2 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 waste water into the POTW, any user subject to categorical pretreatment standards shall submit to the POTW a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by such standards and the average and maximum daily flow for these process units in the user facility which are limited by such pretreatment standards or requirements. Where equivalent mass or concentration based limits are established by the POTW for a user, this report shall contain a reasonable measure of the user's long-term production rate. Where a user is subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, the report shall include the user's actual production during the appropriate sampling period. The report shall state whether the applicable pretreatment standards are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the user into compliance with the applicable pretreatment standards. All compliance reports must be signed and certified as outlined in 5.3.9.6 (e) of this Code.

(Ord. 4333, § 11.02, 12-20-2005)

**5.3.11.3 Periodic compliance reports.**

Sec. 3 (a) Any user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the POTW, shall submit to the POTW during the months of June and December, unless required more frequently in the pretreatment standard or by the Superintendent, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all average and maximum daily flows for the reporting period. At the discretion of the Superintendent and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the POTW may agree to alter the months during which the above reports are to be submitted.

(b) The POTW may impose mass based limitations on users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases where the imposition of mass based limits are appropriate. In such cases, the report required by 5.3.11.3 (a) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the POTW, of pollutants contained therein which are limited by the applicable pretreatment standards.

(c) For industrial users subject to equivalent mass or concentration limits established by the POTW in accordance with the procedures in 40 CFR 403.6(C), the report required by 5.3.11.3 (a) above shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by 5.3.11.3 (a) above shall include the user's actual average production rate for the reporting period.

(d) Significant non-categorical industrial users shall submit to the POTW at least once every six (6) months (on dates specified by the POTW in the significant industrial user's discharge permit) a description of the nature, concentration, and flow of the pollutants required to be reported by the POTW.

(Ord. 4333, § 11.03, 12-20-2005)

#### **5.3.11.4 Monitoring and analysis in support of self-monitoring requirements.**

Sec. 4 (a) The reports required by this Code section shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the EPA. This sampling and analysis may be performed by the POTW in lieu of the user. Where the POTW itself collects all the information required for the report, the user will not be required to submit the report.

(b) If sampling performed by a user indicates a violation, the user shall notify the POTW within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW within thirty (30) days after becoming aware of the violation, except the user is not required to re-sample if:

- 1) The POTW performs sampling at the user at a frequency of at least once per month, or
- 2) The POTW performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

(c) The reports required in this Code section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The Superintendent shall require

that frequency of monitoring necessary to assess and insure compliance by users with applicable pretreatment standards and requirements.

(d) If a user subject to the reporting requirement in and of this Code section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in this Code section, the results of this monitoring shall be included in the report.

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

(f) The reports required by this Code section shall include the certification statement as outlined in 5.3.9.6 (e) of this Code and shall be signed by an authorized representative.

(Ord. 4333, § 11.04, 12-20-2005)

#### **5.3.11.5 Report of changed condition.**

Sec. 5 (a) Each industrial user is required to notify the Superintendent of any planned significant changes to the industrial user's operations or system which might alter the nature, quality or volume of its waste water at least thirty (30) days before the change.

(b) The Superintendent may require the industrial user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a discharge permit application.

(c) The Superintendent may issue a new discharge permit or modify an existing discharge permit as conditions dictate.

(d) No industrial user shall implement the planned changed condition(s) until and unless the Superintendent has responded to the industrial user's notice.

(e) For purposes of this requirement flow increases of ten percent (10%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

(Ord. 4333, § 11.05, 12-20-2005)

#### **5.3.11.6 Reporting requirements for nonsignificant industrial users.**

Sec. 6 The City of Goshen shall require appropriate reporting from those industrial users that are not subject to categorical pretreatment standards and are not required to obtain a significant industrial

user discharge permit.

(Ord. 4333, § 11.06, 12-20-2005)

#### **5.3.11.7 Hazardous waste notification.**

Sec. 7 (a) Any user which discharges to the City of Goshen POTW any substance which, if otherwise disposed of, would be listed as a hazardous waste under 40 CFR 261, shall notify the POTW, the EPA Regional Waste Management Division Director and State of Indiana hazardous waste authorities in writing of such discharge.

(b) All hazardous waste notifications shall include:

- 1) The name of the hazardous waste as set forth in 40 CFR 261;
- 2) The EPA hazardous waste number;
- 3) The type of discharge (continuous, batch, or other); and
- 4) A copy of the Material Safety Data Sheet (MSDS).

(c) In addition to the information submitted in 5.3.11.7 (b) above, users discharging more than ten (10) kilograms of hazardous waste per calendar month to the POTW shall contain to the extent such information is known and readily available to the user:

- 1) An identification of the hazardous constituents contained in the waste;
- 2) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and
- 3) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.

(d) All hazardous waste notifications shall be submitted no later than one hundred eighty (180) days from the discharge of the wastes. Any notification under this provision need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted under 5.3.11.5 of this Code.

(e) Users are exempt from the hazardous waste notification requirement during a calendar month in which they discharge fifteen (15) kilograms or less of non-acute hazardous wastes. Discharge of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e) requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(f) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW, the EPA Regional Waste Management Division Director and State of Indiana hazardous waste authorities of the discharge of such substance(s) within ninety (90) days of the effective date of such regulation.

(g) In the case of any notification made under this Code section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(Ord. 4333, § 11.07, 12-20-2005)

#### **5.3.11.8 Analytical requirements.**

Sec. 8 All pollutant analyses, including sampling techniques, to be submitted as part of a discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

(Ord. 4333, § 11.08, 12-20-2005)

#### **5.3.11.9 Sample collection.**

Sec. 9 (a) Except as indicated in 5.3.11.9 (b) below, the user must collect waste water samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Superintendent may authorize the use of time proportional sampling through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(b) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides and volatile organic chemicals must be obtained by using grab sample techniques.

(c) The Superintendent may use a grab sample(s) to determine noncompliance with pretreatment standards.

(Ord. 4333, § 11.09, 12-20-2005)

**5.3.11.10 Timing.**

Sec. 10 Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the US Postal Service, the date of receipt of the report shall govern.

(Ord. 4333, § 11.10, 12-20-2005)

**5.3.11.11 Recordkeeping.**

Sec. 11 Users shall retain, and make available for inspection and copying, all records and information required to be retained under this Code article or as required by a discharge permit. 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 compliance with this Code article, or where the user has been specifically notified of a longer retention period by the Superintendent.

(Ord. 4333, § 11.11, 12-20-2005)

**5.3.11.12 Compliance monitoring.**

Sec. 12 (a) The City of Goshen shall have the right to enter the facilities of any user to ascertain whether the purpose of this Code article, and any permit or order issued, is being met and whether the user is complying with all requirements. Users shall allow the Superintendent or the Superintendent's representatives ready access to any parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

(b) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the City of Goshen, the State of Indiana and EPA will be permitted to enter without delay, for the purposes of performing their specific responsibilities.

(c) The City of Goshen, the State of Indiana and EPA shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(d) The City of Goshen may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure waste water flow and quality shall be calibrated at factory recommended intervals, or more frequently if conditions require, to ensure their accuracy.

(e) 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 Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

(f) Unreasonable delays in allowing City personnel access to the user's premises shall be considered a violation of this Code article.

(Ord. 4333, § 11.12, 12-20-2005)

## **Chapter 12 Tenant Responsibility**

### **5.3.12.1 Tenant responsibility.**

Sec. 1 Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, either or both may be held responsible for compliance with the provisions of this Code article.

(Ord. 4333, § 12, 12-20-2005)

## **Chapter 13 Right of Entry**

### **5.3.13.1 Right of entry.**

Sec. 1 Representatives of the POTW, the state or EPA, upon showing proper identification shall have the right to enter and inspect the premises of any user who may be subject to the requirements of this Code article. Users shall allow authorized representatives of the POTW, state or EPA access to all premises for the purpose of inspecting, sampling, examining records or copying records in the performance of their duties. Authorized representatives of the POTW, state or EPA shall have the right to place on the user's property such devices as are necessary to conduct sampling and monitoring. Where a user has security or safety measures in force which would require clearance, training, or wearing of special protective gear, the user shall make necessary arrangements at its own expense, to enable authorized representatives of the POTW, state, or EPA to enter and inspect the premises as guaranteed by this Code section.

(Ord. 4333, § 13, 12-20-2005)

## **Chapter 14 Enforcement**

### **5.3.14.1 Minor infraction.**

Sec. 1 (a) When the Superintendent finds that any user has experienced a minor infraction of

this Code article or any permit issued hereunder, the Superintendent may, at the Superintendent's discretion, notify the user of the infraction by telephone call. Said telephone call may be considered the first step in any enforcement action that may subsequently occur. The telephone call shall:

- 1) Notify the user of the type and duration of the infraction.
- 2) Request that the user respond to the notification in writing within a period of time required by the Superintendent.

(b) A minor infraction may include, but is not limited to, one time missed reporting deadlines, short-term excursions of pollutant limitations (provided that no pass-through, interference or environmental or health damage occurs), improper disposal of non-hazardous wastes or unintentional discharge of a prohibited substance provided the discharge is a one-time occurrence and immediate steps were taken to minimize the discharge.

(c) Telephone notification will be waived in the event of repeated violations or intentional discharges of prohibited substances. Enforcement activity in the case of more serious or repeat violations shall be initiated through a formal letter or Notice of Violation listing the type, date and duration of the violation and a requirement for a written response.

(Ord. 4333, § 14.01, 12-20-2005)

#### **5.3.14.2 Notice of violation.**

Sec. 2 Whenever the Superintendent finds that any user has violated or is violating this Code article, a discharge permit, any prohibition, limitation or requirement, or any order issued hereunder, the Superintendent or the Superintendent's agent may serve upon the user a written notice of violation setting forth the nature of the violation(s). The notice may also include specific corrective actions and compliance schedules to which the Superintendent requires the user to adhere. Within ten (10) days of the date of receipt of this notice, the user shall submit to the Superintendent a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, consistent with the terms of the notice (to include specific corrective actions and compliance schedules). Compliance with the conditions, requirements and terms of this notice shall not be construed to relieve the user of its obligation to comply with its discharge permit which remains in full force and effect nor does such compliance excuse violations occurring before or after receipt of this notice of violation. Additional enforcement action may be pursued if corrective actions are not accomplished as scheduled and the Superintendent expressly reserves the right to seek any and all remedies available to it under this Code article for any violations cited by the notice. The notice shall be served upon the user in accordance with 5.3.14.16 of this Code. The notice is effective on the

date considered given in accordance with 5.3.14.17 of this Code. Nothing in this Code section shall limit the authority of the City of Goshen to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 4333, § 14.02, 12-20-2005)

**5.3.14.3 Show cause order and hearing.**

Sec. 3 (a) The Superintendent may serve upon any user who causes, allows or contributes to a violation of this Code article, its discharge permit, or any order issued hereunder, or an unauthorized discharge to enter the POTW a written show cause order. Said order must be given at least ten (10) days prior to the hearing in accordance with 5.3.14.16 of this Code. The show cause order must contain:

- 1) The name and address of the user to whom the show cause order is issued;
- 2) The address, or the parcel number, of the property that is the subject of the order, if different from 5.3.14.3 (a) 1) above;
- 3) The nature of the violation(s);
- 4) An order to the user to appear before the Board of Public Works and Safety to show cause as to why the City should not initiate formal enforcement action against the user or discontinue service to the user;
- 5) A statement indicating the exact time and place of the hearing, and that the person to whom the show cause order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross examine opposing witnesses and present arguments;
- 6) A statement of the proposed enforcement action and the reasons therefore;
- 7) A statement indicating that a failure to comply with any of the conditions, requirements or terms of the show cause order shall constitute a violation of this Code article and may subject the user to such other enforcement response that may be appropriate;
- 8) The name, address and telephone number of the Pretreatment Coordinator of the City.

(b) The Board of Public Works and Safety may itself conduct a hearing and take the evidence, or may designate any of its members or any officer or employee of the Utility Department to:

- 1) Issue in the name of the Board of Public Works and Safety notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;

- 2) Take the evidence;
- 3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board of Public Works and Safety for action thereon.

(c) A hearing must be held relative to each show cause order of the City and the hearing shall be held on a business day no earlier than ten (10) days after notice of the show cause order is given. In this regard, the show cause order shall be served upon the user in accordance with 5.3.14.16 of this Code and the show cause order is effective on the date considered given in accordance with 5.3.14.17 of this Code. At any hearing held pursuant to this Code article, testimony taken must be under oath and recorded stenographically or mechanically. The person to whom the show cause order was issued, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Whether or not a duly notified user appears as noticed, enforcement action may be pursued as appropriate. Each person appearing at the hearing is entitled to present evidence, cross examine opposing witnesses and present arguments. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.

(d) After the Board of Public Works and Safety has reviewed the evidence and if it finds any violation(s) of this Code article, any prohibition, limitation or requirement contained herein or of the user's discharge permit, or of any order issued hereunder, it shall make findings and it may issue to the user responsible for the discharge any orders or directives as are necessary and appropriate. Issuance of a show cause order shall not be a prerequisite to taking any other action against a user.

(Ord. 4333, § 14.03, 12-20-2005)

#### **5.3.14.4 Consent order.**

Sec. 4 The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance including, but not limited to, compliance schedules, stipulated fines or remedial actions, and signatures of the Superintendent and user representatives. Consent orders shall have the same force and effect as any other orders issued by the Board of Public Works and Safety under this Code section.

(Ord. 4333, § 14.04, 12-20-2005)

**5.3.14.5 Compliance order.**

Sec. 5 When the Superintendent finds that a user has violated or continues to violate this Code article, discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time period. If the user does not come into compliance within the specified time period, sewer service shall be discontinued to the user unless and until adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Such service shall not recommence until such time as the user is able to demonstrate that it can and will maintain compliance. Failure to comply with this compliance order may subject the user to having its connection to the sanitary sewer sealed by the City of Goshen and assessed the costs therefore. Compliance orders may also contain such other requirements as might be reasonable necessary and appropriate to address the noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring and improved management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(Ord. 4333, § 14.05, 12-20-2005)

**5.3.14.6 Cease and desist order.**

Sec. 6 (a) When the Superintendent finds that a user is violating this Code article, the user's discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- 1) Immediately comply with all requirements;
- 2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(b) In an emergency, the order to cease and desist may be given by the Superintendent by telephone. In non-emergency situations, the cease and desist order may be used to suspend or revoke discharge permits. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(Ord. 4333, § 14.06, 12-20-2005)

**5.3.14.7 Revocation order.**

Sec. 7 When the Superintendent finds that a user is violating this Code article, the user's discharge permit, any order issued hereunder, any other pretreatment standard or requirement, or any order or directive issued by the Board of Public Works and Safety pursuant to a show cause hearing, the Superintendent may issue an order to the user revoking the user's discharge permit and directing the user to immediately stop or eliminate non-domestic contribution into the City of Goshen's POTW. Failure to comply with this order may subject the user to having any or all connections to the sanitary sewer sealed by the City of Goshen and assessed the costs therefore. Revocation orders may be issued by the Superintendent pursuant to 5.3.9.11 of this Code and shall not be a prerequisite to taking any other action against the user.

(Ord. 4333, § 14.07, 12-20-2005)

**5.3.14.8 Board of Public Works and Safety.**

Sec. 8 (a) The findings of the Board of Public Works and Safety and any order issued thereto shall be in writing and shall be available to the public upon request. However, neither the City nor the Board of Public Works and Safety is required to give any person notice of the findings and orders issued thereto other than the user to whom said orders may be directed. The findings and any orders issued by the Board of Public Works and Safety shall be served upon the user in accordance with 5.3.14.16 of this Code and the notice is effective on the date considered given in accordance with 5.3.14.17 of this Code.

(b) Compliance with the conditions, requirements and terms of any of the orders issued by the Board of Public Works and Safety pursuant to 5.3.14.3 (d) of this Code will not be construed to relieve the user of its obligation to comply with its waste water contribution permit which remains in full force and effect nor does such compliance excuse previous violations. Additional enforcement action may be pursued if corrective actions are not accomplished as scheduled and the City expressly reserves the right to seek any and all remedies available to it under this Code article for any violation found by the Board of Public Works and Safety. Further, a failure to comply with any of the conditions, requirements or terms of the orders shall constitute a further violation of this Code article and may subject the user to such other enforcement response that may be appropriate.

(c) Any action taken by the Board of Public Works and Safety under this Code article is subject to review by the Circuit or Superior Court of the County of Elkhart, Indiana on the request of any user to whom the respective order was issued or to any interested party. Any person requesting judicial review under this Code section must file a verified complaint within ten (10) days of the date when the

Board of Public Works and Safety issued its findings of fact and accompanying order. An appeal under this Code section is an action de novo. The court may affirm, modify or reverse the action taken by the Board of Public Works and Safety.

(Ord. 4333, § 14.08, 12-20-2005)

#### **5.3.14.9 Emergency suspension of service.**

Sec. 9 (a) The City of Goshen may, upon informal notice to the user, immediately suspend a user's discharge whenever such suspension is necessary, in the opinion of the Superintendent, in order to stop an actual or threatened discharge which presents or may present an immediate or substantial endangerment to human health, to the environment, that threatens to interfere with the operation of the POTW or is causing or will cause the City of Goshen to violate any condition of its NPDES permit.

(b) Any user notified of a suspension of the waste water treatment service and/or the discharge permit shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including, but not limited to, immediate severance of the sewer connection, to minimize damage to the POTW system or endangerment to any individuals or to the environment.

(c) The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City of Goshen that the period of endangerment has passed, unless the termination proceedings set forth in 5.3.14.10 below are initiated against the user.

(d) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of any show cause or termination hearing.

(e) Compliance with the conditions, requirements and terms of the suspension order shall not be construed to relieve the user of its obligation to comply with its discharge permit which remains in full force and effect nor does such compliance excuse previous violations. Additional enforcement action may be pursued if corrective actions are not accomplished as required and the City expressly reserves the right to seek any and all remedies available to it under this Code article for any violations cited by the suspension order. Further, a failure to comply with any of the conditions, requirements or terms of the suspension order shall constitute a further violation of this Code article and may subject the user to such other enforcement response that may be appropriate.

(f) The Superintendent may deny or condition new or increased discharges by a user or changes in

the nature of pollutants discharged by the user if the discharge does not meet applicable pretreatment standards or will cause the City of Goshen to violate its NPDES permit.

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

(Ord. 4333, § 14.09, 12-20-2005)

#### **5.3.14.10 Termination of discharge.**

Sec. 10 (a) In addition to those provisions in 5.3.9.11 of this Code, any user that violates the following conditions of this Code article, discharge permits or orders issued hereunder, is subject to discharge termination:

- 1) Violation of discharge permit conditions;
- 2) Failure to accurately report the waste water constituents and characteristics of its discharge;
- 3) Failure to report significant changes in operations or waste water volume, constituents or characteristics prior to discharge;
- 4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling;
- 5) Violation of the pretreatment standards in 5.3.5 of this Code.

(b) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under 5.3.14.3 of this Code why the proposed action should not be taken.

(Ord. 4333, § 14.10, 12-20-2005)

#### **5.3.14.11 Injunctive relief.**

Sec. 11 Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this Code article, discharge permits or orders issued hereunder, or any other pretreatment requirement, or any order or directive issued by the Board of Public Works and Safety pursuant to 5.3.14.3 (d) of this Code, the Superintendent may petition the Circuit or Superior Court of Elkhart County, Indiana through the City of Goshen Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the discharge permit, order, or other requirements imposed by this Code article on activities of the industrial user. Such other action as appropriate for legal and/or equitable relief may also be sought by the City of Goshen. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(Ord. 4333, § 14.11, 12-20-2005)

**5.3.14.12 Civil penalties.**

Sec. 12 (a) Any user which has violated or continues to violate this Code article, any order or discharge permit issued hereunder, or any other pretreatment standard or requirement shall be liable to the City of Goshen for a civil penalty of up to but no more than Two thousand five hundred Dollars (\$2,500.00) per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(b) The City of Goshen may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the City of Goshen, including fines, penalties, costs or damages imposed upon the City of Goshen by the State of Indiana, EPA or other governmental entities pursuant to 5.3.16 of this Code.

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

(d) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

(Ord. 4333, § 14.12, 12-20-2005)

**5.3.14.13 Remedies nonexclusive.**

Sec. 13 The provisions set forth in 5.3.14 of this Code are not exclusive remedies. The City of Goshen reserves the right to take any, all or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City of Goshen's enforcement response plan. However, the City of Goshen reserves the right to take other action against any user when the circumstances warrant. Further, the City of Goshen is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

(Ord. 4333, § 14.13, 12-20-2005)

**5.3.14.14 User's right of interpretation.**

Sec. 14 Any user or any interested party has the right to request in writing an interpretation or

ruling by the City of Goshen on any matter covered by this Code article and is entitled to a prompt written reply. In the event that such an inquiry is by the affected discharger and deals with matters of compliance with this Code article or deals with a discharge permit, receipt of the discharger's request will not delay any enforcement proceedings.

(Ord. 4333, § 14.14, 12-20-2005)

#### **5.3.14.15 Annual publication of violators.**

Sec. 15 The City of Goshen shall publish at least annually in the largest daily newspaper circulated in the service area of the POTW, a list and description of those industrial users which were found to be in significant noncompliance as defined in 5.3.20.1 (a) 44) of this Code, or were subject to the enforcement proceedings pursuant to the provisions of 5.3.14 of this Code, or state or federal regulations, or exhibited a pattern of noncompliance or where violations remained uncorrected forty-five (45) days after notification of noncompliance during the previous calendar year or during the period since the previous publication.

(Ord. 4333, § 14.15, 12-20-2005)

#### **5.3.14.16 Service.**

Sec. 16 (a) Any notice of noncompliance, notice of orders, notice of any other directives issued by the City of Goshen or by the Board of Public Works and Safety may be served upon any principle executive, general partner, corporate officer, or the individual in charge of the user's waste water treatment program as designated by the user, and shall be given by either:

- 1) Sending a copy of the notice, order or statement by registered or certified mail to the place of business or employment of the person to be notified, with return receipt requested; or
- 2) Delivering a copy of the notice, order or statement personally to the person to be notified; or
- 3) Leaving a copy of the notice, order or statement at the place of business or employment of the person to be notified.

(b) When service is made by any of the means described, the person making service must make an affidavit stating that he has made this service, the manner in which the service was made, to whom the notice, order or statement was issued, the nature of the notice, order or statement and the date of service. The affidavit must be placed on file with the City of Goshen.

(c) If, after reasonable effort, service is not obtained by a means described in 5.3.14.16 (a) above, service may be made by publishing a notice of the notice, order or statement in the Elkhart Truth and

the Goshen News. Publication may be made on consecutive days. If service of an order is made by publication, the publication must include a statement indicating generally what action is required by the notice, order or statement and that the exact terms of the notice, order or statement may be obtained from the City of Goshen.

(Ord. 4333, § 14.16, 12-20-2005)

#### **5.3.14.17 Effective date of notice, order or statement.**

Sec. 17 The date when the notice, order or statement is considered given is as follows:

- 1) If the notice, order or statement is delivered personally or left at the usual place of business or employment, notice is considered given on the day when the notice, order or statement is delivered to the person or left at the person's usual place of business or employment.
- 2) If the notice, order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the City of Goshen.
- 3) Notice by publication is considered given on the date of the second day that publication was made.

(Ord. 4333, § 14.17, 12-20-2005)

#### **5.3.14.18 Supplemental enforcement remedies.**

Sec. 18 In addition to those enforcement actions, remedies or proceedings addressed in this Code chapter, the City of Goshen may, at its option, utilize any or all of the following enforcement remedies:

- 1) Performance Bonds. The Superintendent may decline to reissue a discharge permit to any user which has failed to comply with the provisions of this Code article or any order or previous discharge permit issued hereunder unless such user first files with it a satisfactory bond, payable to the City of Goshen, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance.
- 2) Liability Insurance. The Superintendent may decline to reissue a discharge permit to any user which has failed to comply with the provisions of this Code article or any order or previous discharge permit issued hereunder, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

- 3) Water Supply Severance. Whenever a user has violated or continues to violate the provisions of this Code article or an order or discharge permit issued hereunder, water service to the user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- 4) Public Nuisances. Any violation of the prohibitions on effluent of this Code article or permit or order issued hereunder may be hereby declared a public nuisance and, as such, shall be corrected or abated as directed by the Superintendent or the Superintendent's designee. Any person(s) creating a public nuisance shall be subject to the applicable provisions of City Code governing such nuisance, including reimbursing the City of Goshen for any costs incurred in removing, abating or remedying said nuisance.
- 5) Contractor Listing. Consistent noncompliance with applicable pretreatment standards and requirements may be the basis for the City determining that a user is not a responsible party for the purpose of rejecting the user's bid for the sale of goods or services to the City of Goshen.

(Ord. 4333, § 14.18, 12-20-2005)

#### **5.3.14.19 Search warrant.**

Sec. 19 If the Superintendent has been refused access to a building, structure or property or any part thereof, and if the Superintendent has demonstrated probable cause to believe that there may be a violation of this Code article or that there is a need to inspect as part of a routine inspection program of the City of Goshen designed to verify compliance with this Code article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community or the environment, then upon application by the City Attorney, a judge of a court of competent jurisdiction including the Municipal Court Judge of the City of Goshen shall issue a search and/or seizure warrant describing the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Superintendent in the company of a uniformed police officer of the City of Goshen. In the event of an emergency affecting public health and safety or environmental quality, inspections shall be made without the issuance of a warrant.

(Ord. 4333, § 14.19, 12-20-2005)

## Chapter 15 Affirmative Defenses to Discharge Violations

### 5.3.15.1 General / specific prohibitions.

Sec. 1 A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in chapters 5.3.2 and 5.3.4 of this Code if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with other discharges, would cause pass through or interference and that either:

- 1) A local limit exists for each pollutant discharged and the industrial user was in compliance with each limit directly prior to, and during, the pass through or interference, or
- 2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City of Goshen was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable biosolids use or disposal requirements.

(Ord. 4333, § 15.01, 12-20-2005)

### 5.3.15.2 Bypass.

Sec. 2 (a) Bypass Not Violating Applicable Pretreatment Standards or Requirements. A user may allow any bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to 5.3.15.2 (b) and (c) below.

(b) Notice to POTW.

- 1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW, if possible at least ten (10) days before the date of the bypass.
- 2) A user shall orally notify the POTW of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within twenty-four (24) hours of becoming aware of the bypass. A written submission shall also be provided within five (5) days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact times and dates, 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 recurrence of the bypass.

(c) Bypass Prohibited; Exceptions.

- 1) Bypass is prohibited and the POTW may take enforcement action against an individual user

for a bypass, unless:

(A) bypass was unavoidable to prevent loss of life, personal injury or severe property damage. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

(B) there are no feasible alternatives to bypass, such as use of auxiliary treatment facilities, retention of wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(C) the user submitted notices as required by 5.3.15.2 (b) above.

- 2) The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three (3) conditions listed in 5.3.15.2 (c) 1) above.

(Ord. 4333, § 15.02, 12-20-2005)

### **5.3.15.3 Upset provisions.**

Sec. 3 (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of 5.3.15.3 (b) below 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 workmanlike manner and in compliance with applicable operation and maintenance procedures.
- 3) The user has submitted the following information to the POTW and treatment plant operator within twenty-four (24) hours of becoming aware of the upset, (if this information is provided orally, a written submission must be provided within five (5) days):
  - (A) a description of the indirect discharge and cause of noncompliance;
  - (B) the period of noncompliance, including exact dates and times or, if not corrected, the

anticipated time the noncompliance is expected to continue;

(C) 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) The user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(e) The user will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(Ord. 4333, § 15.03, 12-20-2005)

## **Chapter 16 Recovery of Costs and Fines**

### **5.3.16.1 Recovery of costs.**

Sec. 1 Any person violating any provisions of this Code article or who discharges or causes a discharge that produces a deposit or obstruction, or causes damage to the City of Goshen's waste water treatment or collection system will be liable to the City of Goshen for any expense, loss or damage caused by the violation or discharge. The City of Goshen will bill the discharger for the costs incurred for any cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed cost shall constitute a violation enforceable under provisions of this Code.

(Ord. 4333, § 16.01, 12-20-2005)

### **5.3.16.2 Recovery of fines.**

Sec. 2 Any person violating any provisions of this Code or who discharges or causes a discharge that results in the City of Goshen being fined by the EPA, IDEM or any other state or federal administrative agency will be liable to the City of Goshen for reimbursement of such fines, penalties, costs or damages and the City of Goshen shall be reimbursed from the violator. Refusal to pay the assessed fine would constitute a violation enforceable under provisions of this Code article.

(Ord. 4333, § 16.02, 12-20-2005)

## Chapter 17 Confidential Information

### 5.3.17.1 Confidential information.

Sec. 1 (a) Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the City of Goshen, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the POTW. Effluent data shall be available to the public without restriction.

(b) When the person furnishing a report satisfies the POTW that such person has made the demonstration required by 5.3.17.1 (a), the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except by governmental agencies for uses related to this Code article, the NPDES permit or the pretreatment program. Confidential portions of a report shall be available for use by the State of Indiana or EPA in judicial review or enforcement proceedings involving the person furnishing the report. Waste water characteristics and constituents and other effluent data as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 4333, §§ 17.01 and 17.02, 12-20-2005)

## Chapter 18 Rates and Charges

### 5.3.18.1 Rates and charges.

Sec. 1 (a) The owner of each and every lot, building or parcel of real estate that is connected to the City's sanitary sewer system or otherwise discharges sanitary sewage, industrial waste water or other liquids either directly or indirectly into the City's sewer system shall be charged and is obligated to pay fees as set forth in the "Goshen Sewer Utility Schedule of Rates and Charges" ordinance as may be amended from time to time. The rates and charges shall be deemed to extend and cover any additional premises that are later served by the City's sewage works without the necessity of any notice or hearing.

(b) The City shall make and enforce such regulation as deemed necessary for the safe, economic and efficient management of the City's sewer system, including the sewer system and the treatment plant, for the construction and use of building sewers and connections to the sewer system and for the regulation, collection, rebating and refunding of rates and charges. The City shall reserve the

right to increase or decrease the frequencies of sampling and testing of any waste water discharger if it deems necessary in order to make the pretreatment program more cost effective for the City of Goshen in regards to installation of pretreatment equipment.

(Ord. 4333, §§ 18.01 and 18.02, 12-20-2005)

### **5.3.18.2 Rates based on Volumes Discharged.**

Sec. 2 (a) The sewage rates are based on the volume of sewage discharged into the City's sanitary sewer system from the premise or premises as the volume is measured by the water meter on the lot, building or parcel of real estate, except as otherwise provided in this Code chapter, plus monthly service charge as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges".

(b) The City will use the total water meter reading to calculate sewer use charges unless a sewer meter is installed in conformity with 5.3.18.2 (e) and (d) below, or the user can show proof that none of the water measured by a particular meter discharges into the sanitary system. This does not authorize the use of a subtract meter. Each meter must measure a separate parallel water system starting at the point of entry into the building.

- 1) Notwithstanding 5.3.18.2 (a) above, an account which presently has in operation a metering system making use of subtract meters will be allowed to continue such system upon establishing that the system accurately measures the sewage discharge into the sanitary system.

(c) All commercial or industrial customers on both City sewer and City water must have a water meter installed or must purchase a meter to directly measure the volume of sanitary sewage, industrial waste water, water or other liquids that are discharged into the City's sanitary sewer system. No monthly meter charge will be assessed to any industrial or commercial customer who purchases and adequately maintains a meter that accurately measures the discharge into the sanitary system if the meter is approved by the Superintendent and is not the type normally handled by the waste water treatment facility.

(d) All commercial or industrial customers on City sewer and not on City water must purchase a meter that reads in cubic feet or an open channel meter approved by the Superintendent to measure the volume of sanitary sewage, industrial waste water, water or other liquids that are discharged into the City of Goshen's sanitary system. Once the initial meter has been purchased, the City will maintain and replace the meter at the Utility's expense except for the normal monthly meter charge assessed to all sewer customers and provided the meter installed is of a type that the City of Goshen

Waste Water Treatment Plant routinely handles. No monthly meter charge will be assessed to any industrial or commercial customer who purchases and adequately maintains an open channel meter. Maintenance and replacement of any open channel meter installed will be at the expense of the commercial or industrial customer.

(e) Any owner of a lot, building or parcel of real estate may request that the City of Goshen Utility install a sewer meter that directly measure the volume of sanitary sewage, industrial waste water or other liquids discharged into the sanitary system. Any owner of a lot, building or parcel of real estate who requests such a meter will be responsible for its initial cost. The City will maintain the meter once installed at the City's own expense other than the monthly meter charge imposed upon all sewer customers. However, the City will charge for any damage to the meter that results from the negligent or intentional conduct of the owner of the lot, building or parcel of real estate, or any person on the premises with the owner's permission.

(f) Any owner of a lot, building or parcel of real estate may install and maintain at their own expense an open channel meter to directly measure the volume of sanitary sewage, industrial waste water or other liquids discharged into the sanitary system. Prior to the installation of the open channel meter, the make and type of meter to be installed must be approved by the Superintendent. If such a meter is installed and maintained so it accurately measures the volume discharged into the sanitary system, the volume measured by the meter will be substituted for the volume as measured by the water meter for the purposes of calculating the amount of the sewage charge. The person using an open channel meter shall submit test results indicating that it is accurate every six (6) months.

(Ord. 4333, § 18.03, 12-20-2005)

### **5.3.18.3 Sprinkling Meters.**

Sec. 3 (a) Any sewer customer may install a sprinkling meter in addition to the regular water meter for the purpose of measuring the water used by an irrigation system or other sprinkling system used exclusively for watering lawns or other plantings. No additional fire hydrant rental billing fee or connection fee will be charged to customers electing to have the sprinkling meter installed, provided the customer already has one (1) or more water meters measuring water usage at the same location.

(b) All sprinkling meters will be purchased through the Goshen Water and Sewer Department. The sprinkling meter will be sold to customers for an amount equal to the Water and Sewer Department's cost to purchase the meter.

(c) A customer installing a meter will pay all plumbing costs to install the sprinkling meter and an inspection fee except the inspection fee will be waived if the installation is made by a licensed

plumber.

(Ord. 4333, § 18.03, 12-20-2005)

#### **5.3.18.4 Residential Summer Sewer Rates.**

Sec. 4 (a) The sewer bills for residential customers issued in June, July, August, and September shall apply the rates and charges as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" to the lower of the actual volume of sewage discharged into the sanitary sewer during the billing period as measured in accordance with the other provisions of this Code article or the highest volume of sewage discharged into the sanitary sewer system as reflected in the billings for the months of January, February, March, and April of that calendar year and October, November, and December of the previous calendar year. It is intended that this provision is only for residential customers with three (3) or fewer dwelling units per building and mobile home parks.

(b) The Goshen Utilities Office Manager is authorized to eliminate one (1) or more bills issued in October, November, December, January, February, March, and April from consideration as the highest monthly bill in accordance with rules and regulations as established by the Board of Public Works and Safety where such bill does not accurately reflect sewer usage during a single billing period.

(Ord. 4333, § 18.03, 12-20-2005)

#### **5.3.18.5 Sewer rates and charges.**

Sec. 5 All customers connected to the City's sewer system shall pay the rates and charges as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges: for the use and services of the Goshen Sewer Utility. For the purposes of billing and collecting the sewer rates and charges, the Goshen Utilities Office will bill customers on a monthly basis.

(Ord. 4333, § 18.04, 12-20-2005)

#### **5.3.18.6 Free Service Prohibited.**

Sec. 6 The City shall not grant free service or use of the City's sewage treatment system to any person, group or entity unless approved in writing pursuant to the policy established by the Board of Public Works and Safety.

(Ord. 4333, § 18.05, 12-20-2005)

**5.3.18.7 Catch Basins.**

Sec. 7 The City Sewer Department shall charge the civil City of Goshen's general fund an annual maintenance charge as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" for each catch basin located within the City to reimburse the Sewer Department for maintaining catch basins.

(Ord. 4333, § 18.06, 12-20-2005)

**5.3.18.8 Surcharges.**

Sec. 8 (a) In order that the rates and charges may justly and equitably be adjusted to services rendered, the City shall impose, in addition to the charges previously set forth in this Code article, a surcharge based upon the strength and character of the sewage and waste which it is required to treat and dispose. The City shall have the right to measure and determine or cause to be measured and determined, the strength and content of all sewage and waste discharged either directly or indirectly into the City's sewage system in such a manner and by such methods as may be deemed practical in light of the conditions and attending circumstances in order to determine the proper charge.

(b) Any and all commercial and industrial installations having an effluent discharge into the City's sewage system with an average Biochemical Oxygen Demand (CBOD) exceeding 200 milligrams per liter (mg/l), and/or an average daily Suspended Solids (SS) exceeding 200 mg/l, and/or an average Phosphorus (P) exceeding 10 mg/l, and/or an average Ammonia-Nitrogen (NH<sub>3</sub>-N) exceeding 30 mg/l, and/or an average Fats Oil and Grease (FOG) concentration exceeding 200 mg/l, and/or Hydrocarbon Oil and Grease (O&G) exceeding 100 mg/l shall be deemed to be discharging waste water of such strength as to require a surcharge for its treatment and disposal.

(c) The surcharge to be imposed by the City for the treatment of such waste water shall be based on the following formula:

$$1) \text{ Surcharge} = [(BOD - Ba)(V)(8.34)(bo)] + [(SS - Sa)(V)(8.34)(So)] + [(PP - Pa)(V)(8.34)(Po)] + [(NH_3 - N - na)(V)(8.34)(no)] + [(GC - Ga)(V)(8.34)(Go)]$$

2) For the purposes of the foregoing formula, the following definitions shall apply:

(A) bo = average unit cost of treatment, chargeable to CBOD, dollars per pound as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges"

(B) BOD = the concentration of CBOD in the waste water from a specific user, mg/l

(C) Ba = maximum concentration of CBOD in mg/l which can be discharged into the City's

collection system without a surcharge = 200 mg/l

(D) So = average unit cost of treatment (including biosolids treatment) chargeable to suspended solids, dollars per pound as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges"

(E) SS = the concentration of suspended solids in the waste water from a specific user in mg/l

(F) Sa = maximum concentration of suspended solids in mg/l which can be discharged into the City's collection system without a surcharge = 200 mg/l

(G) V = volume in million gallons

(H) Po = average unit cost of treatment chargeable to phosphorus, dollars per pound as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges"

(I) PP = the concentration of phosphorus in the waste water from a specific user in mg/l

(J) Pa = maximum concentration of phosphorus in mg/l which can be discharged into the City's collection system without a surcharge = 10 mg/l

(K) no = average unit cost of treatment, chargeable to NH<sub>3</sub>-N, dollars per pound as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges"

(L) NH<sub>3</sub>-N = the concentration of NH<sub>3</sub>-N in the waste water from a specific user in mg/l

(M) na = maximum concentration of NH<sub>3</sub>-N in mg/l which can be discharged into the City's collection system without a surcharge = 30 mg/l

(N) Go = average unit cost of treatment chargeable to oil and grease, dollars per pound as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges"

(O) GC = the concentration of oil and grease in the waste water from a specific user in mg/l

(P) Ga = maximum concentration of oil and grease in mg/l which can be discharged into the City's collection system without a surcharge = 200 mg/l

(Ord. 4333, § 18.07, 12-20-2005)

#### **5.3.18.9 Pretreatment Charges.**

Sec. 9 A pretreatment charge shall be collected from users of the City's waste water disposal system, which charges shall be as follows:

- 1) A charge for laboratory analysis of each significant industrial user sample collected by the

- POTW will be as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges”. Non-significant industrial user sample analysis that is performed by contract laboratory will be charged based on the prevailing fee of the contract laboratory.
- 2) In-house laboratory analysis fees will be as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges”.
  - 3) A sampling fee as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges” will be charged for each composite sample collected.

(Ord. 4333, § 18.08, 12-20-2005)

#### **5.3.18.10 Miscellaneous Charges.**

Sec. 10 (a) Non-Permitted Manufacturing/Industrial Surcharge. A surcharge as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges” for each cubic foot of waste water discharged to the Waste Water Treatment Plant shall be assessed to all non-permitted manufacturing/industrial accounts.

(b) Food Preparation/Service Surcharge. A surcharge as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges” for each cubic foot of waste water discharged to the Waste Water Treatment Plant shall be assessed to all commercial facilities engaged in food preparation or service. The purpose of this surcharge is to recover the cost of treatment and maintenance created by the discharge of grease. This surcharge may be waived if the facility implements best management practices to eliminate the discharge of fats, oil and grease as approved by the Environmental Compliance Administrator and the Board of Public Works and Safety.

(c) Sewer Cleaning Service. If any user discharges waste causing the City of Goshen to utilize sewer cleaning equipment to remove the grease or other obstruction from sewer lines, lift stations or wet wells, a fee as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges” with a minimum of four (4) hours will be imposed. If the City purchases chemicals, hardware or other material for the purpose of cleaning or maintaining sewer lines, lift stations or wet wells due to the discharge of grease or other obstructive substances by any user, the City shall maintain the right to assess the user for the cost of said materials.

(d) Televisual Inspection Service. The Goshen Sewer Department will provide a televisual inspection of a building sewer or public sewer at the request of a user or contractor upon the user’s or contractor’s payment of the televisual inspection fee as set forth in the ordinance entitled “Goshen Sewer Utility Schedule of Rates and Charges”.

(Ord. 4333, § 18.09, 12-20-2005)

**5.3.18.11 Billing procedures.**

Sec. 11 (a) Monthly Billing. The City of Goshen shall bill each owner of a lot, building or parcel of real estate connected to the City's sewer system on a monthly basis in accordance with the provisions of this Code article and other applicable ordinances and statutes.

(b) Application of Payments

- 1) Any payment on a utility account will be applied first to taxes assessed on the water account over ninety (90) days old, then to penalties on the water account over ninety (90) days old, then to that portion of the water bill over ninety (90) days old, then to taxes assessed on the sewage account over ninety (90) days old, then to penalties on the sewage account over ninety (90) days old and then to the portion of the sewage bill over ninety (90) days old.
- 2) Any portion of the payment remaining after applying 5.3.18.11 (b) 1) above will be allocated in the manner described in 5.3.18.11 (b) 1) above first by substituting sixty (60) days for ninety (90) days then substituting thirty (30) days for ninety (90) days and finally paying the current charges.
- 3) Any remaining portion of the payment will be shown as a credit on the account.

(c) Payment Obligation. A person over the age of eighteen (18) who occupies a lot, building or parcel of real estate and who makes written application to the City to have the water and sewage charges billed to him or her may be billed those charges directly from the date of the application. The person making the application to have the water and sewer charges billed in the person's name is personally obligated to pay all proper water and sewage charges made to the account until the person informs the City in writing of the person's intent to have the person's name removed from the account. The application of the person occupying a lot, building or parcel of real estate does not relieve the obligation of the owner of the lot, building or parcel of real estate to pay the balance of the account if the person occupying the lot, building or parcel of real estate fails to pay, except that the owner shall not be obligated to pay unpaid penalties imposed until a demand for payment is made upon the owner by the City of Goshen. The City will not accept an application to transfer a bill into the name of a person occupying a lot, building or parcel of real estate unless the City of Goshen provides both water and sewer to the lot, building or parcel of real estate.

(d) Owner's Right to Examine Records. The owner of property on which the sewer bill is sent to a person other than the owner of the property shall have the right to examine the collection records of the Goshen Sewer Utility during regular business hours for the purpose of determining whether

charges have been paid.

(e) Other Billing.

- 1) The Goshen Sewer Department may request from the Board of Public Works and Safety permission to provide products, services, licenses and permits and to bill for those products, services, licenses and permits at a later date. The request of the Board of Public Works and Safety shall be accompanied by a policy statement which shall detail the product, service, license or permit involved, the method of billing, the method of collection of past due accounts and the official who is responsible for handling the billing.
- 2) Billings must be mailed within forty-five (45) days of the end of the month in which the product, service, license or permit was provided. Billings must state that the payment in full is due within ten (10) days of the receipt of the bill. The Goshen Utility Office is responsible for the billing and shall maintain financial records which show the name and address of the person or organization billed, the date, the product, service, license or permit that was provided, the amount which was billed, the date on which the payment was received and the date of the billing.
- 3) Products, services, licenses or permits for which authority to bill has been given by another City ordinance or state statute shall not fall under the scope of this Code article.

(f) Service Deposit

1) Residential Customers.

(A) When applying for service, a residential customer who is not the legal owner of the real estate serviced by the Sewer Utility shall pay a service deposit as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges".

(B) When applying for service, a residential customer who is the legal owner of the real estate serviced by the Sewer Utility shall pay a service deposit as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges", unless the residential customer had an account with the Sewer Utility in the customer's name for at least six (6) consecutive months prior, and all payments under the account are current and paid by their respective due dates during that six (6) month period.

2) Non-Residential Customers.

(A) When applying for service, a commercial industrial, or other non-residential customer who is not the legal owner of the real estate serviced by the Sewer Utility shall pay a

service deposit equal to one-sixth (1/6) of the estimated annual billing for that location or the amount as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges", whichever is greater.

(B) When applying for service, a commercial, industrial, or other non-residential customer who is the legal owner of the real estate serviced by the Sewer Utility shall also be required to pay a service deposit equal to one-sixth (1/6) of the estimated annual billing for that location or the amount as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges", whichever is greater, unless the customer had an account with the Sewer Utility in the customer's name for at least six (6) consecutive months prior, and all payments under the account are current and paid by their respective due dates during that six (6) month period.

- 3) The service deposit shall be retained in a separate fund and each deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the owner, lessee or user of the property served, that as of a certain date:

- (A) the property being served has been conveyed or transferred to another person;
- (B) the property being served no longer uses or is connected with any part of the municipal sewage system; or
- (C) the user of the service has moved from the property being served

A statement made under 5.3.18.11 (f) 3) (A) above must include the name and address of the person to whom the property is conveyed or transferred. The owner, lessee or user of the property must supply the utility with a forwarding address.

- 4) If the owner, lessee or user of the property served fails to satisfy costs and fees within sixty (60) days after the termination of use or ownership of the property served, the service deposit shall be forfeited and the forfeited amount shall be applied to the outstanding fees. Any excess that remains due after application of the forfeiture may be collected as provided by Indiana Code 36-9-23-31 or 36-9-23-32.
- 5) The Board of Public Works and Safety may at any time it deems the City adequately secure, order the release and disbursement to the depositor of any sewage service deposit.

(g) Late Payment Penalty. Pursuant to Indiana Code 36-9-23-31, a customer who has not paid all charges on an account on or before the due date stated on the bill, which due date will be at least fifteen (15) days after the bill is rendered, shall be assessed a late penalty of ten percent (10%) on any outstanding balance.

(h) Delinquent Fee. Pursuant to Indiana Code 36-9-23-33, Goshen Utilities is authorized to charge each delinquent account for which it files a lien a delinquent fee in an amount equal to the current fees as established by the County Recorder to record the lien and the fee to release a lien, plus a service charge of Five Dollar (\$5.00).

(Ord. 4333, § 18.10, 12-20-2005)

## **Chapter 19 Modification of Rates and Charges**

### **5.3.19.1 Modification of rates and charges.**

Sec. 1 The City of Goshen reserves the right to modify the rates and charges for services of the Goshen Sewer Utility as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges" from time to time. The rates and charges shall be modified in accordance with the statutory procedures for the modification of sewer rates. All rates and charges referenced in this Code article shall be the rates and charges that are currently in effect at the applicable time.

(Ord. 4333, § 20, 12-20-2005)

## **Chapter 20 Definitions and Abbreviations**

### **5.3.20.1 Definitions.**

Sec. 1 The following terms and phrases shall apply in the interpretation and enforcement of this Code article:

- 1) ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- 2) APPLICABLE PRETREATMENT STANDARD. Any pretreatment limit or prohibitive standard (federal, state and/or local) contained in this Code article and considered to be the most restrictive with which non-domestic users will be required to comply.
- 3) AUTHORIZED REPRESENTATIVE OF INDUSTRIAL USER. An authorized representative of an industrial user may be:
  - (A) a principal executive officer, or an individual designated as an authorized representative by the principle executive officer if the industrial user is a corporation;
  - (B) a general partner or proprietor if the industrial user is a partnership or proprietorship respectively;
  - (C) a director or the highest official appointed or designated to oversee the operation and

performance of activities if the industrial user is a federal, state or local governmental facility.

- 4) BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees centigrade expressed in terms of weight and concentration (milligrams per liter [mg/l]).
- 5) BIOSOLIDS. Any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial waste water treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under sections 402 and 405 of the federal Act and in the applicable requirements under sections 3001, 3004, and 4004 of the Solid Waste Disposal Act (PL 94-580).
- 6) BUILDING DRAIN. That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer, beginning five feet (5') outside the inner face of the building wall.
- 7) BUILDING SEWER. A sewer conveying waste water from the premises of a user to the property line.
- 8) BYPASS. The intentional diversion of waste streams from any portion of an industrial user's treatment facility.
- 9) CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD. Any regulation containing pollutant discharge limitations promulgated by the USEPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- 10) COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
- 11) COMBINED SEWER. A sewer receiving both surface runoff and sewage.
- 12) COMMERCIAL USER. Any person who is not a residential user or industrial user as defined in this Code article.
- 13) COMPOSITE SAMPLE. A composite sample should contain a minimum of eight (8) discrete samples taken at equal time intervals over the compositing period or proportional to the flow

- rate over the composite period. More than the minimum number of discrete samples will be required where the waste water loading is highly variable.
- 14) DAILY DISCHARGE. Discharge of a pollutant measured during a calendar day or any twenty-four (24) hour period that reasonably represents the calendar day for purposes of sampling.
- 15) DIRECT DISCHARGE. The discharge of treated or untreated waste water directly to the waters of the State of Indiana.
- 16) DISCHARGE PERMIT. A permit issued by the City of Goshen which authorizes:
- (A) Any significant industrial user:
  - (B) Any commercial waste hauler; or
  - (C) Any commercial user who sells food to be consumed on-site or prepares food for sale or for consumption
- to deposit or discharge waste water into any sanitary sewer.
- 17) EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Act.
- 18) GARBAGE. Any solid wastes from the preparation, cooking or dispensing of food and from handling, storage, or sale of produce.
- 19) GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.
- 20) GREASE INTERCEPTOR. A device located underground and outside a food service facility designed to collect, contain, or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the waste water collection system by gravity.
- 21) GREASE TRAP. A device located inside a food service facility or under a sink designed to collect, contain, or remove food wastes and grease from the waste stream while allowing the balance of the liquid waste to discharge to the waste water collection system by gravity.
- 22) HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

- 23) **INDIRECT DISCHARGE.** The discharge or the introduction of non-domestic pollutants from any source regulated under section 307(b), (c) or (d) of the Act (33 USC 1317), into the POTW, including holding tank waste discharged into the system and infiltration.
- 24) **INDUSTRIAL USER.** Any person who introduces or has the potential to introduce pollutants into a POTW from any manufacturing, non-commercial or non-domestic source regulated under the Act, state law or local code or ordinance.
- 25) **INDUSTRIAL WASTES.** The liquid wastes in liquid-borne waste resulting from any commercial, manufacturing or industrial operation or process as distinguished from sanitary sewage.
- 26) **INTERFERENCE.** A discharge which alone or in conjunction with a discharge or discharges from other sources:
- (A) inhibits or disrupts the POTW, its treatment processes, use or disposal; and
  - (B) therefore is a cause of a violation of the City of Goshen's NPDES permit or of the prevention of sewage biosolid use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state biosolid management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the toxic Substances Control Act; and the Marine Protection, research and Sanctuaries Act.
- 27) **LATERAL**
- A section of pipe connecting the building sewer to the City's sewer main. The lateral starts at the property line and goes to the sewer main.
- 28) **NEW SOURCE.**
- (A) any building, structure, facility or installation from which there may be a discharge of pollutants, the construction of which is commenced after the publication of proposed pretreatment standards under section 307(c) of the Act which will be applicable to such source, if such standards are thereafter promulgated in accordance with that section, provided that:
    - (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 discharge of pollutants at an existing source; or

(iii) the production or waste water 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.

(B) construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of 5.3.20.1 28), (A), i), ii) or iii) above but otherwise alters, replaces or adds to existing process or production equipment.

(C) construction of a new source as defined under this Code section has commenced if the owner or operator has:

(i) begun, or caused to begin as part of a continuous on-site construction program:

- any placement, assembly or installation of facilities or equipment; or
- 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 Code section.

29) NON-CONTACT COOLING WATER. Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product or finished product, to which the only pollutant added is heat.

30) PASS-THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

- 31) PERSON. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context. This definition includes all federal, state or local governmental entities.
- 32) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- 33) POLLUTANT. Any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and Industrial, municipal, and agricultural waste discharged into water.
- 34) PRETREATMENT or TREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in waste water to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR 403.6(d).
- 35) PRETREATMENT STANDARD or STANDARD. Any local, state or federal regulation containing pollutant discharge limits. This term includes local limits, prohibitive discharge limits including those promulgated under 40 CFR 403.5, and categorical pretreatment standards.
- 36) PUBLIC SEWER. A sewer in which all owners of abutting properties have equal rights, and is controlled by the City of Goshen.
- 37) PUBLICLY OWNED TREATMENT WORKS (POTW). A treatment works as defined by section 212 of the Act, (33 USC 1292) which is owned, in this instance, by the City of Goshen. This definition includes the treatment plant plus any sewers that convey waste water to the treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purpose of this Code article, "POTW" shall also include any sewers that convey waste waters to the treatment plant from persons outside the City of Goshen who are, by contract or agreement with the City of Goshen, users of the City of the City of Goshen POTW.
- 38) RECEIVING WATERS. The watercourse, stream, or body of water receiving the waters

- finally discharged from the waste water treatment plant.
- 39) SANITARY SEWAGE. The wastes from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drains, drinking fountains, stable floor drains and all other waterborne wastes except that which is defined in this Code article as industrial waste.
- 40) SANITARY SEWER. A sewer which carries sewage, and to which storm, surface and ground waters are not intentionally admitted.
- 41) SEWAGE. A combination of the water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface and stormwaters as may be present.
- 42) SEWER. A pipe or conduit for carrying sewage.
- 43) SIGNIFICANT INDUSTRIAL USER.
- (A) any industrial user of the City's waste water disposal system who:
- (i) has a process discharge flow of twenty-five thousand (25,000) gallons or more per average work day; or
  - (ii) has a total discharge flow greater than five percent (5%) of the flow in the City's waste water treatment system; or
  - (iii) has in the user's waste toxic pollutants as defined pursuant to section 307 of the Act or State of Indiana statutes and rules; or
  - (iv) is found by the City, Indiana Department of Environmental Management or the USEPA to have significant impact, either singly or in combination with other contributing industries, on the waste water treatment system, the quality of biosolids, the system's effluent quality, or air emissions generated by the system.
- (B) upon a finding that an industrial user meeting the above criteria has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the POTW may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.
- 44) SIGNIFICANT NONCOMPLIANCE.
- (A) chronic violations of waste water discharge limits, defined here as those in which sixty-

six percent (66%) or more of all of the measurements taken during a six (6) month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter.

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable (TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).

(C) any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the City of Goshen determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public).

(D) any discharge of a pollutant that has caused imminent endangerment to the public or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(E) failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.

(F) failure to provide, within thirty (30) days after the due date, any required reports such as baseline monitoring reports, ninety (90) day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules.

(G) failure to accurately report noncompliance.

(H) any other violation or group of violations which the City of Goshen determines will adversely affect the operation or implementation of the local pretreatment program.

45) SLUG LOAD. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

46) STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the "*Standard Industrial Classification Manual*" issued by the Executive Office of the President, Office of Management and Budget, (1972).

47) STORM SEWER. A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes.

- 48) STORMWATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- 49) SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, waste water or other liquids, and which is removable by laboratory filtering.
- 50) SUPERINTENDENT. The City of Goshen Utilities Superintendent, or his or her duly authorized representative.
- 51) TOXIC POLLUTANT. Any pollutant or combination of pollutants identified as toxic pursuant to section 307(a) of the Federal Water Pollution Control Act or other federal statutes or in regulations promulgated by the state under state law.
- 52) UPSET. An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the applicable pretreatment standard due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation of the facilities.
- 53) USER CLASS. The division of waste water treatment customers by source, function, waste characteristics and process or discharge similarities:
- (A) RESIDENTIAL USER. A user of the treatment works whose premises or building is used primarily as a residence for one (1) or more persons, including all dwelling units, etc.
  - (B) COMMERCIAL USER. Any establishment involved in a commercial enterprise, business or service which, based on a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
  - (C) INSTITUTIONAL USER. Any establishment involved in a social, charitable, religious and/or educational function which, based on a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
  - (D) GOVERNMENT USER. Any federal, state or local governmental user of the waste water treatment works.
  - (E) INDUSTRIAL USER. Any establishment involved in manufacturing, processing or related activity that discharges industrial waste to the POTW.
- 54) WASTE WATER CONSTITUENTS and CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters including volume, flow rate and other

parameters that serve to define, classify or measure the contents, quality, quantity and strength of waste water.

55) WATERS of the STATE.

(A) both surface and underground waters within the boundaries of the State of Indiana subject to its jurisdiction, including all ponds, lakes, rivers, streams, public ditches, tax ditches and public drainage systems within the state, other than those designed and used to collect, convey or dispose of sanitary sewage; and

(B) the flood plain free-flowing waters determined by the Department of Natural Resources on the basis of one hundred (100) year flood frequency.

(Ord. 4333, §§ 19.01 to 19.63, 12-20-2005)

**5.3.20.2 Abbreviations.**

Sec. 2 The following abbreviations shall apply in the interpretation and enforcement of this Code article:

- |          |   |
|----------|---|
| 1) BOD   | Biochemical Oxygen Demand                       |
| 2) EPA   | Environmental Protection Agency                 |
| 3) NPDES | National Pollutant Discharge Elimination System |
| 4) POTW  | Publicly Owned Treatment Works                  |
| 5) RCRA  | Resource Conservation and Recovery Act          |
| 6) SIC   | Standard Industrial Classification              |
| 7) SWDA  | Solid Waste Disposal Act, 42 USC 6901, et seq.  |
| 8) TSS   | Total Suspended Solids                          |

(Ord. 4333, §§ 19.01 to 19.63, 12-20-2005)

## **Article 4 Design Standards and Construction Specifications**

### **Chapter 1 Design Standards and Construction Specifications**

**5.4.1.1 Design standards and construction specifications.**

Sec. 1 (a) This Code article hereby approves and establishes the design standards and construction specifications for all areas throughout the City as described and illustrated in the City of

Goshen Design Standards and Construction Specifications booklet.

(b) All ordinances or parts of ordinances in conflict with the City of Goshen Design Standards and Construction Specifications are hereby repealed only to the extent of such conflict.

(c) This Code article shall be in full force and effect from and after it's passage, approval and publication as required by law.

(Ord. 3713, 4-9-1996)

**5.4.1.2 Design standards and construction specifications booklet.**

Sec. 2 (a) Refer to Appendix D for *Design Standards and Construction Specifications – Utilities*.

(b) Refer to Appendix E for *Design Standards and Construction Specifications – Streets*.

## **Article 5 Railroads**

### **Chapter 1 Traffic Control**

**5.5.1.1 Railroad crossings.**

Sec. 1 (a) The Penn-Central Railroad Company, or its successors in interest, shall install and maintain those automatic train warning devices commonly known as blinkers at the intersection of its tracks with the following streets:

Beaver Lane  
Douglas Street  
Indiana Avenue  
Jefferson Street  
Madison Street  
Ninth Street  
Purl Street  
Reynolds Street

(b) The Penn-Central Railroad Company, or its successor in interest, shall install and maintain railroad crossing safety gates at the intersection of its tracks with the following places:

Cottage Avenue  
Lincoln Avenue, East

First Street

Pike Street and Fifth Intersection

Main Street

Monroe Street

Wilkinson Street

(c) It shall be unlawful for any person to fail to comply with this Code section.

(Ord. 548, §§ 1 to 14, 4-6-1925; Ord. 560, §§ 1 to 4, 5-8-1925; Ord. 699, § 1, 6-5-1928;  
Ord. 726, § 1, 2-2-1931; Ord. 890, § 1, 7-1-1940)

**5.5.1.2 Blocking traffic.**

Sec. 2 It shall be unlawful for the directing officer or the operator of any railroad train to direct the operation of or to operate the same in a manner as to prevent the use of any street for the purpose of travel for a period of time longer than five (5) minutes; this provision shall not apply to trains or cars in motion other than those engaged in switching.

(Ord. 1607, § 75, 5-6-1963)

**– End of Title 5 –**