



Agenda for the Goshen Common Council

6:00 p.m., June 10, 2024 Regular Meeting

Council Chamber, Police & Court Building, 111 East Jefferson Street, Goshen, IN

Call to Order by Mayor Gina Leichty

Pledge of Allegiance led by Selah Rojas Lopez, a fourth grader this fall at Parkside Elementary School

Roll Call:

Linda Gerber (At-Large) **Phil Lederach** (District 5) **Doug Nisley** (District 2)
Megan Peel (District 4) **Donald Riegsecker** (District 1) **Matt Schrock** (District 3)
Council President Brett Weddell (At-Large)
Youth Adviser Jessica Velazquez Valdes (Non-voting)

Approval of Minutes: May 13, 2024 Regular Meeting

Approval of Meeting Agenda

Privilege of the Floor

- 1) City of Goshen Financial Report** (Deputy Clerk-Treasurer Jeffery Weaver)
- 2) Ordinance 5187: Additional Appropriations** (For the Police holiday pay, General Obligation Bond construction fund and the Greater Elkhart County Stormwater Partnership)
- 3) Resolution 2024-10: A Resolution Providing for the Transfer Of Appropriations** (To fund increased medical exams for Police applicants and to move funds to a budget line more fitting for City employee recognition and appreciation initiatives)
- 4) Public hearing and consideration of Ordinance 5186 – Vacation of Public Ways in the City of Goshen, Indiana** (an east/west alley located between 413 and 415 N 1st Street)
- 5) Ordinance 5188: Fire Prevention Ordinance of the City of Goshen, Indiana** (to update and modernize the fire prevention regulations for the City of Goshen to assist the Goshen Fire Department in their mission to protect life and property)



6) Ordinance 5189: An Ordinance Amending Rules for the Services of the Goshen Sewer Utility and Pretreatment Requirements and Standards (Amendments to City ordinances governing Goshen Sewer Utility services to keep the operation in compliance with U.S. Environmental Protection Agency requirements, including modification to Pretreatment local limits, and consolidating all current ordinances relating to the City's Sewer Operation into one ordinance)

7) Ordinance 5185: An Ordinance of the Common Council of the City of Goshen to Establish a Process to Address Chronic Disorderly Properties (Intended to establish a regulatory framework to help alleviate the problems created by chronic unlawful or nuisance activity through early intervention by the Police Department and/or other City officials responsible for code enforcement)

Elected Official Reports

Adjournment



Richard Aguirre, City Clerk-Treasurer
CITY OF GOSHEN

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TO: Goshen City Common Council

FROM: Jeffery Weaver, Deputy Clerk-Treasurer

RE: 2024 Monthly Expenditure Report as of April 30, 2024

DATE: June 10, 2024

The attached Monthly Financial Reports provide financial information for the Civil City spending as of April month-end. The Clerk-Treasurer's Office produces these reports upon month-end closing and plans to make them available to the Common Council and City Management for their review. The attached reports are unaudited and may include immaterial variances due to payroll accruals or month-end closing adjustments. The attached reports supplement, but do not replace, other financial reports prepared by the Clerk-Treasurer's Office such as departmental financial reports or the Annual Financial Report published in Indiana's Gateway database.

Cash Balances

Pages 2 and 3 summarize cash balances for council-budgeted funds from the beginning of the year to the end of April. The cash balance at the beginning of the year for these funds was \$87,716,180 and at the end of April was \$81,228,982.

Receipts

Pages 4 and 5 summarize receipts for council-budgeted funds so far in 2024. Receipts in these funds totaled \$10,311,564 so far in the budget year, which reflects 18.1% of the budgeted receipts.

Expenditures

Pages 6 and 7 reflect expenditures for council-budgeted funds so far in 2024. Expenditures in these funds totaled \$16,798,762 so far in the budget year. This amount includes encumbrances, which are payments made in the current year but were approved as part of the prior-year budget. The original budget of \$75,559,462 and encumbrances of \$3,401,471 result in an effective budget of \$78,960,933. The City has spent 21.3% of this budget so far this year.

Year-Over-Year Comparisons

Pages 8 through 11 show a snapshot comparison of the current and prior year financials as of April 30.

CITY OF GOSHEN, INDIANA

2024 MONTHLY CASH BALANCE REPORT

	<u>Balance as of 1/1/2024</u>	<u>Receipts as of 4/30/2024</u>	<u>Expenditures as of 4/30/2024</u>	<u>Cash Balance as of 4/30/2024</u>
<u>GENERAL FUND</u>				
General Fund	\$ 18,414,450	\$ 5,702,339	\$ 9,956,615	\$ 14,160,174
 Total General Fund	 \$ 18,414,450	 \$ 5,702,339	 \$ 9,956,615	 \$ 14,160,174
 <u>SPECIAL REVENUE FUNDS</u>				
Motor Vehicle Highway	\$ 3,269,248	\$ 528,060	\$ 923,934	\$ 2,873,374
Local Roads and Streets	967,783	213,222	5,140	1,175,865
Parks	4,250,564	181,699	784,643	3,647,620
Aviation	498,815	59,082	93,998	463,899
Probation	136,392	33,462	36,833	133,021
EDIT	4,624,490	953,135	257,874	5,319,751
Economic Improvement District	20,196	113	17,493	2,816
Parking Lot Fund	5,360	-	5,360	-
Opioid Unrestricted Fund	45,315	33,911	-	79,226
Law Enforcement Continuing Ed	73,329	6,697	28,485	51,541
Unsafe Building	209,674	17,388	-	227,062
Township Fire Support	220,279	350,000	61,197	509,082
Rainy Day	2,654,517	-	-	2,654,517
Public Safety LOIT	1,454,174	910,762	774,308	1,590,628
Residential Lease Fees	43,305	22,700	16,960	49,045
Redevelopment Operating	447,432	31,337	75,387	403,382
Stormwater Management	2,124,154	13,946	140,226	1,997,874
 Total Special Revenue Funds	 \$ 21,045,027	 \$ 3,355,514	 \$ 3,221,838	 \$ 21,178,703

CITY OF GOSHEN, INDIANA

2024 MONTHLY CASH BALANCE REPORT (Continued)

	<u>Balance as</u> <u>of 1/1/2024</u>	<u>Receipts as</u> <u>of 4/30/2024</u>	<u>Expenditures</u> <u>as of 4/30/2024</u>	<u>Cash Balance</u> <u>as of 4/30/2024</u>
<u>RESTRICTED FUNDS</u>				
American Rescue Plan Grant	\$ 5,684,956	\$ -	\$ 57,282	\$ 5,627,674
Motor Vehicle Highway Restricted	1,486,695	246,163	-	1,732,858
Opioid Restricted Funds	114,544	79,126	-	193,670
Court Fees	46,549	28,265	29,088	45,726
Debt Service	75,554	5,685	185,100	(103,861) (1)
Cumulative Capital Improvemet	331,715	-	1,901	329,814
Cumulative Capital Development	669,921	14,071	93,481	590,511
Cumulative Sewer	2,822,950	27,754	52,201	2,798,503
Cumulative Fire	494,081	9,371	62,158	441,294
Major Moves (1)	4,702,865	65,912	-	4,768,777
Cumulative Cemetery	80,605	2,580	-	83,185
General Capital Improvement	136,746	-	-	136,746
2021 GO Bond Proceeds	3,170,223	-	-	3,170,223
2015 GO Bond Proceeds	849,472	-	-	849,472
Fire Pension	299,528	-	145,143	154,385
Police Pension	478,432	175	93,680	384,927
	<u>\$ 21,444,836</u>	<u>\$ 479,102</u>	<u>\$ 720,034</u>	<u>\$ 21,203,904</u>
Total Restricted Funds				
<u>REDEVELOPMENT FUNDS</u>				
Bond Principal and Interest	\$ 574,542	\$ -	\$ 814,219	\$ (239,677) (2)
SouthEast TIF	14,978,108	563,975	761,391	14,780,692
Lippert/Dierdorff TIF	612,445	-	65,160	547,285
Consolidated RiverRace/US 33 TIF	10,646,772	210,634	1,259,505	9,597,901
	<u>\$ 26,811,867</u>	<u>\$ 774,609</u>	<u>\$ 2,900,275</u>	<u>\$ 24,686,201</u>
Total Redevelopment Funds				
Total Budgeted Fund Cash Balance	<u><u>\$ 87,716,180</u></u>	<u><u>\$ 10,311,564</u></u>	<u><u>\$ 16,798,762</u></u>	<u><u>\$ 81,228,982</u></u>

(1) Negative cash balance due to timing difference. City will receive levy in June and December which will return fund balance to positive.

(2) Negative cash balance due to timing difference. The Southeast TIF fund transfers money to the Bond P&I Fund in June each year.

CITY OF GOSHEN, INDIANA

2024 MONTHLY RECEIPT/INCOME REPORT

<u>GENERAL FUND</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>YEAR</u>	<u>BUDGET</u> (1)	<u>% BUDGET</u>
General Fund	\$ 1,347,985	\$ 1,379,519	\$ 1,276,257	\$ 1,698,578	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,702,339	\$ 25,315,806	22.5%
Total General Fund	\$ 1,347,985	\$ 1,379,519	\$ 1,276,257	\$ 1,698,578	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,702,339	\$ 25,315,806	22.5%
<u>SPECIAL REVENUE FUNDS</u>															
Motor Vehicle Highway	\$ 59,811	\$ 60,832	\$ 77,005	\$ 330,412	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 528,060	\$ 4,130,424	12.8%
Local Roads and Streets	54,615	53,450	52,458	52,699	-	-	-	-	-	-	-	-	213,222	943,082	22.6%
Parks	25,144	27,570	29,802	99,183	-	-	-	-	-	-	-	-	181,699	3,409,479	5.3%
Aviation	13,304	8,169	13,354	24,255	-	-	-	-	-	-	-	-	59,082	391,342	15.1%
Probation	7,274	8,935	10,640	6,613	-	-	-	-	-	-	-	-	33,462	80,000	41.8%
EDIT	253,582	229,368	240,817	229,368	-	-	-	-	-	-	-	-	953,135	2,757,415	34.6%
Economic Improvement District	56	37	10	10	-	-	-	-	-	-	-	-	113	57,000	0.2%
Parking Lot Fund	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Opioid Unrestricted Fund	-	-	33,911	-	-	-	-	-	-	-	-	-	33,911	-	-
Law Enforcement Continuing Ed	690	3,434	1,790	783	-	-	-	-	-	-	-	-	6,697	45,750	14.6%
Unsafe Building	796	740	3,806	12,046	-	-	-	-	-	-	-	-	17,388	-	-
Township Fire Support	350,000	-	-	-	-	-	-	-	-	-	-	-	350,000	350,000	100.0%
Rainy Day	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Public Safety LOIT	227,691	227,690	227,691	227,690	-	-	-	-	-	-	-	-	910,762	2,732,286	33.3%
Residential Lease Fees	2,405	5,425	6,237	8,633	-	-	-	-	-	-	-	-	22,700	77,700	29.2%
Redevelopment Operating	8,500	7,658	6,698	8,481	-	-	-	-	-	-	-	-	31,337	93,000	33.7%
Stormwater Management	2,495	5,068	1,058	5,325	-	-	-	-	-	-	-	-	13,946	597,320	2.3%
Total Special Revenue Funds	\$ 1,006,363	\$ 638,376	\$ 705,277	\$ 1,005,498	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,355,514	\$ 15,664,798	21.4%

See notes on next page.

CITY OF GOSHEN, INDIANA

2024 MONTHLY RECEIPT/INCOME REPORT (Continued)

<u>RESTRICTED FUNDS</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>YEAR</u>	<u>BUDGET</u>	<u>% BUDGET</u>
														(1)	
American Rescue Plan Grant	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	-
Motor Vehicle Highway Restricted	58,793	59,832	62,217	65,321	-	-	-	-	-	-	-	-	246,163	1,059,808	23.2%
Opioid Restricted Funds	-	-	79,126	-	-	-	-	-	-	-	-	-	79,126	-	-
Court Fees	8,275	6,281	6,727	6,982	-	-	-	-	-	-	-	-	28,265	47,800	59.1%
Debt Service	-	-	-	5,685	-	-	-	-	-	-	-	-	5,685	360,335	1.6%
Cumulative Capital Improvemet	-	-	-	-	-	-	-	-	-	-	-	-	-	62,648	0.0%
Cumulative Capital Development	-	-	-	14,071	-	-	-	-	-	-	-	-	14,071	782,119	1.8%
Cumulative Sewer	-	-	18,382	9,372	-	-	-	-	-	-	-	-	27,754	520,890	5.3%
Cumulative Fire	-	-	-	9,371	-	-	-	-	-	-	-	-	9,371	520,890	1.8%
Major Moves	17,000	15,198	16,240	17,474	-	-	-	-	-	-	-	-	65,912	-	-
Cumulative Cemetery	756	892	369	563	-	-	-	-	-	-	-	-	2,580	11,000	23.5%
General Capital Improvement	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2021 GO Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2015 GO Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Fire Pension	-	-	-	-	-	-	-	-	-	-	-	-	-	550,000	0.0%
Police Pension	10	40	75	50	-	-	-	-	-	-	-	-	175	340,000	0.1%
Total Restricted Funds	\$ 84,834	\$ 82,243	\$ 183,136	\$ 128,889	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 479,102	\$ 4,255,490	11.3%
 <u>REDEVELOPMENT FUNDS</u>															
Bond Principal and Interest	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 817,843	0.0%
SouthEast TIF	210,957	48,390	124,710	179,918	-	-	-	-	-	-	-	-	563,975	6,822,477	8.3%
Lippert/Dierdorff TIF	-	-	-	-	-	-	-	-	-	-	-	-	-	248,600	0.0%
Consolidated RiverRace/US 33 TIF	47,764	33,239	94,461	35,170	-	-	-	-	-	-	-	-	210,634	3,853,820	5.5%
Total Redevelopment Funds	\$ 258,721	\$ 81,629	\$ 219,171	\$ 215,088	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 774,609	\$ 11,742,740	6.6%
Total 2024 Receipts	\$ 2,697,903	\$ 2,181,767	\$ 2,383,841	\$ 3,048,053	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,311,564	\$ 56,978,834	18.1%

(1) Receipt budgets are used only for DLGF calculations. Measurement and performance is not reviewed or restricted by DLGF and is primarily for City management purposes.

CITY OF GOSHEN, INDIANA

2024 MONTHLY EXPENDITURE/SPENDING REPORT

<u>GENERAL FUND DEPARTMENT</u>	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>YEAR</u>	<u>BUDGET</u>	<u>ENCUMBER</u>	<u>% BUDGET</u>
															(1)	
Common Council	\$ 45,585	\$ 11,392	\$ 14,626	\$ 9,751	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 81,354	\$ 136,190	\$ 30,834	48.7% (2)
Mayor	43,980	43,701	60,124	44,614	-	-	-	-	-	-	-	-	192,419	588,050	-	32.7%
Clerk-Treasurer	58,660	55,801	76,344	58,452	-	-	-	-	-	-	-	-	249,257	765,100	-	32.6%
Legal	68,249	60,715	80,775	60,501	-	-	-	-	-	-	-	-	270,240	942,235	6,962	28.5%
City Court	34,752	34,149	47,065	41,829	-	-	-	-	-	-	-	-	157,795	469,840	-	33.6%
Board of Works	318,320	464,132	790,530	347,967	-	-	-	-	-	-	-	-	1,920,949	5,441,020	345,577	33.2%
Technology	19,013	32,239	25,542	19,144	-	-	-	-	-	-	-	-	95,938	712,750	-	13.5%
Cemeteries	31,386	22,857	38,612	47,540	-	-	-	-	-	-	-	-	140,395	519,840	-	27.0%
Community Relations Commission	6,853	8,106	12,883	11,168	-	-	-	-	-	-	-	-	39,010	104,840	-	37.2%
Engineering	68,303	66,013	93,451	73,954	-	-	-	-	-	-	-	-	301,721	1,064,930	-	28.3%
Police	657,932	630,382	835,669	723,224	-	-	-	-	-	-	-	-	2,847,207	9,420,700	48,628	30.1%
Fire	635,680	562,248	741,951	590,439	-	-	-	-	-	-	-	-	2,530,318	7,758,950	47,619	32.4%
Building	40,140	40,616	52,263	42,880	-	-	-	-	-	-	-	-	175,899	525,720	8,600	32.9%
Planning	32,781	32,272	43,893	32,759	-	-	-	-	-	-	-	-	141,705	427,300	-	33.2%
Central Garage	92,457	141,663	163,888	137,238	-	-	-	-	-	-	-	-	535,246	1,722,050	-	31.1%
Environmental Resilience	42,927	51,193	60,421	122,621	-	-	-	-	-	-	-	-	277,162	831,320	-	33.3%
Total General Fund	\$ 2,197,018	\$ 2,257,479	\$ 3,138,037	\$ 2,364,081	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 9,956,615	\$ 31,430,835	\$ 488,220	31.2%
SPECIAL REVENUE FUNDS																
Motor Vehicle Highway	\$ 176,012	\$ 254,269	\$ 252,238	\$ 241,415	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 923,934	\$ 3,597,125	\$ 4,348	25.7%
Local Roads and Streets	-	-	-	5,140	-	-	-	-	-	-	-	-	5,140	600,000	4,535	0.9%
Parks	146,037	205,525	176,897	256,184	-	-	-	-	-	-	-	-	784,643	3,418,950	491,928	20.1%
Aviation	23,548	29,929	19,703	20,818	-	-	-	-	-	-	-	-	93,998	385,940	2,514	24.2%
Probation	8,307	8,033	11,588	8,905	-	-	-	-	-	-	-	-	36,833	111,005	-	33.2%
EDIT	132,217	42,721	4,620	78,316	-	-	-	-	-	-	-	-	257,874	3,237,750	484,421	6.9%
Economic Improvement District	4,737	3,970	8,786	-	-	-	-	-	-	-	-	-	17,493	57,000	-	30.7%
Parking Lot Fund	-	-	-	5,360	-	-	-	-	-	-	-	-	5,360	5,360	-	100.0%
Opioid Unrestricted Fund	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Law Enforcement Continuing Ed	944	624	5,992	20,925	-	-	-	-	-	-	-	-	28,485	36,000	-	79.1%
Unsafe Building	-	-	-	-	-	-	-	-	-	-	-	-	-	85,000	-	0.0%
Township Fire Support	9,240	8,422	1,777	41,758	-	-	-	-	-	-	-	-	61,197	350,000	-	17.5%
Rainy Day	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Public Safety LOIT	171,654	165,969	239,395	197,290	-	-	-	-	-	-	-	-	774,308	2,882,400	-	26.9%
Residential Lease Fees	4,862	3,575	4,823	3,700	-	-	-	-	-	-	-	-	16,960	56,835	-	29.8%
Redevelopment Operating	15,931	17,253	24,710	17,493	-	-	-	-	-	-	-	-	75,387	243,820	-	30.9%
Stormwater Management	23,641	24,068	30,704	61,813	-	-	-	-	-	-	-	-	140,226	767,175	29,247	17.6%
Total Special Revenue Funds	\$ 717,130	\$ 764,358	\$ 781,233	\$ 959,117	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,221,838	\$ 15,834,360	\$ 1,016,993	19.1%

See notes on next page.

(Monthly Financial Report Prepared for the June 10, 2024 Goshen Common Council Meeting)

CITY OF GOSHEN, INDIANA

2024 MONTHLY EXPENDITURE/SPENDING REPORT (Continued)

RESTRICTED FUNDS	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	YEAR	BUDGET	ENCUMBER	% BUDGET
															(1)	
American Rescue Plan Grant	\$ 7,455	\$ 32,181	\$ 9,961	\$ 7,685	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 57,282	\$ 2,878,300	\$ -	2.0%
Motor Vehicle Highway Restricted	-	-	-	-	-	-	-	-	-	-	-	-	-	1,000,000	102,176	0.0%
Opioid Restricted Funds	-	-	-	-	-	-	-	-	-	-	-	-	-	250,000	-	0.0%
Court Fees	8,189	1,510	6,883	12,506	-	-	-	-	-	-	-	-	29,088	57,250	-	50.8%
Debt Service	185,100	-	-	-	-	-	-	-	-	-	-	-	185,100	369,350	-	50.1%
Cumulative Capital Improvemet	-	-	700	1,201	-	-	-	-	-	-	-	-	1,901	87,000	-	2.2%
Cumulative Capital Development	14,791	10,365	2,840	65,485	-	-	-	-	-	-	-	-	93,481	697,000	53,191	12.5%
Cumulative Sewer	25,066	5,635	7,834	13,666	-	-	-	-	-	-	-	-	52,201	200,000	-	26.1%
Cumulative Fire	41,689	4,925	222	15,322	-	-	-	-	-	-	-	-	62,158	250,000	252,649	12.4%
Major Moves	-	-	-	-	-	-	-	-	-	-	-	-	-	250,000	-	0.0%
Cumulative Cemetery	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
General Capital Improvement	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2021 GO Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
2015 GO Bond Proceeds	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Fire Pension	290	48,236	48,381	48,236	-	-	-	-	-	-	-	-	145,143	533,638	-	27.2%
Police Pension	1,608	30,203	30,348	31,521	-	-	-	-	-	-	-	-	93,680	439,500	-	21.3%
Total Restricted Funds	\$ 284,188	\$ 133,055	\$ 107,169	\$ 195,622	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 720,034	\$ 7,012,038	\$ 408,016	9.7%
REDEVELOPMENT FUNDS																
Bond Principal and Interest	\$ 814,219	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 814,219	\$ 823,114	\$ -	98.9%
SouthEast TIF	59,133	101,657	520,123	80,478	-	-	-	-	-	-	-	-	761,391	9,205,115	1,155,583	7.3%
Lippert/Dierdorff TIF	-	65,160	-	-	-	-	-	-	-	-	-	-	65,160	550,000	-	11.8%
Consolidated RiverRace/US 33 TIF	217,882	153,711	401,760	486,152	-	-	-	-	-	-	-	-	1,259,505	10,704,000	332,659	11.4%
Total Redevelopment Funds	\$ 1,091,234	\$ 320,528	\$ 921,883	\$ 566,630	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,900,275	\$ 21,282,229	\$ 1,488,242	12.7%
Total 2024 Spending	\$ 4,289,570	\$ 3,475,420	\$ 4,948,322	\$ 4,085,450	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 16,798,762	\$ 75,559,462	\$ 3,401,471	21.3%

Notes

(1) Encumbrances are portions of the 2023 budget that were extended into the 2024 budget. This is allowable for 2023 invoiced purchases, unexpired agreements from 2023 or before, or for purchase orders initiated in 2023 intended to be spent from the 2023 budget.

(2) Common Council encumbered \$30,833.77 from the 2023 budget to pay the County Treasurer for 2023 election costs. The City paid the County in January.

(3) Debt Service funds pay debt in January and June of each year.

CITY OF GOSHEN, INDIANA

COMPARISON OF APRIL 2023 AND APRIL 2024 RECEIPTS

<u>GENERAL FUND</u>	<u>April 2023 Budget</u>			<u>April 2024 Budget</u>		
	<u>Receipts</u>	<u>Budget</u>	<u>% Budget</u>	<u>Receipts</u>	<u>Budget</u>	<u>% Budget</u>
General Fund	\$ 4,659,703	\$ 25,242,395	18.5%	\$ 5,702,339	\$ 25,315,806	22.5%
 Total General Fund	 \$ 4,659,703	 \$ 25,242,395		 \$ 5,702,339	 \$ 25,315,806	
 <u>SPECIAL REVENUE FUNDS</u>						
Motor Vehicle Highway	\$ 513,076	\$ 3,415,880	15.0%	\$ 528,060	\$ 4,130,424	12.8%
Local Roads and Streets	210,896	558,036	37.8%	213,222	943,082	22.6%
Parks	111,898	3,112,897	3.6%	181,699	3,409,479	5.3%
Aviation	53,468	347,847	15.4%	59,082	391,342	15.1%
Probation	27,807	90,000	30.9%	33,462	80,000	41.8%
EDIT	995,181	2,504,699	39.7%	953,135	2,757,415	34.6%
Economic Improvement District	171	55,200	0.3%	113	57,000	0.2%
Parking Lot Fund	-	-		-	-	
Opioid Unrestricted Fund	-	-		33,911	-	
Law Enforcement Continuing Ed	8,601	22,500	38.2%	6,697	45,750	14.6%
Unsafe Building	3,157	-		17,388	-	
Township Fire Support	400,000	400,000	100.0%	350,000	350,000	100.0%
Rainy Day	-	-		-	-	
Public Safety LOIT	826,770	2,480,310	33.3%	910,762	2,732,286	33.3%
Residential Lease Fees	15,959	87,702	18.2%	22,700	77,700	29.2%
Redevelopment Operating	29,996	85,000	35.3%	31,337	93,000	33.7%
Stormwater Management	20,289	622,134	3.3%	13,946	597,320	2.3%
 Total Special Revenue Funds	 \$ 3,217,269	 \$ 13,782,205	 23.3%	 \$ 3,355,514	 \$ 15,664,798	 21.4%

(Quarterly Financial Report Prepared for the June 10, 2024 Goshen Common Council Meeting)

CITY OF GOSHEN, INDIANA

COMPARISON OF APRIL 2023 AND APRIL 2024 RECEIPTS (Continued)

<u>RESTRICTED FUNDS</u>	<u>April 2023 Budget</u>			<u>April 2024 Budget</u>		
	<u>Receipts</u>	<u>Budget</u>	<u>% Budget</u>	<u>Receipts</u>	<u>Budget</u>	<u>% Budget</u>
American Rescue Plan Grant	\$ -	\$ -		\$ -	\$ -	
Motor Vehicle Highway Restricted	257,126	651,657	39.5%	246,163	1,059,808	23.2%
Opioid Restricted Funds	-	-		79,126	-	
Court Fees	18,431	33,700	54.7%	28,265	47,800	59.1%
Debt Service	-	310,204	0.0%	5,685	360,335	1.6%
Cumulative Capital Improvemnet	-	65,182	0.0%	-	62,648	0.0%
Cumulative Capital Development	-	700,655	0.0%	14,071	782,119	1.8%
Cumulative Sewer	13,979	468,011	3.0%	27,754	520,890	5.3%
Cumulative Fire	-	468,011	0.0%	9,371	520,890	1.8%
Major Moves	48,057	-		65,912	-	
Cumulative Cemetery	2,476	-		2,580	11,000	23.5%
General Capital Improvement	-	-		-	-	
2021 GO Bond Proceeds	-	-		-	-	
2015 GO Bond Proceeds	-	-		-	-	
Fire Pension	-	537,593	0.0%	-	550,000	0.0%
Police Pension	435	400,000	0.1%	175	340,000	0.1%
Total Restricted Funds	\$ 340,504	\$ 3,635,013	9.4%	\$ 479,102	\$ 4,255,490	11.3%
 <u>REDEVELOPMENT FUNDS</u>						
Bond Principal and Interest	\$ -	\$ 817,919	0.0%	\$ -	\$ 817,843	0.0%
SouthEast TIF	204,946	6,287,260	3.3%	563,975	6,822,477	8.3%
Lippert/Dierdorff TIF	-	232,640	0.0%	-	248,600	0.0%
Consolidated RiverRace/US 33 TIF	76,861	3,590,490	2.1%	210,634	3,853,820	5.5%
Total Redevelopment Funds	\$ 281,807	\$ 10,928,309	2.6%	\$ 774,609	\$ 11,742,740	6.6%
Total Receipts & Budgets	\$ 8,499,283	\$ 53,587,922	15.9%	\$ 10,311,564	\$ 56,978,834	18.1%

CITY OF GOSHEN, INDIANA

COMPARISON OF APRIL 2023 AND APRIL 2024 EXPENDITURES

<u>GENERAL FUND DEPARTMENT</u>	<u>April 2023 Budget</u>			<u>April 2024 Budget</u>		
	<u>Expenditures</u>	<u>Budget</u>	<u>% Budget</u>	<u>Expenditures</u>	<u>Budget</u>	<u>% Budget</u>
Common Council	\$ 32,968	\$ 221,890	14.9%	\$ 81,354	\$ 167,024	48.7%
Mayor	137,880	484,930	28.4%	192,419	588,050	32.7%
Clerk-Treasurer	170,212	728,475	23.4%	249,257	765,100	32.6%
Legal	193,663	905,583	21.4%	270,240	949,197	28.5%
City Court	103,346	429,850	24.0%	157,795	469,840	33.6%
Board of Works	1,702,045	6,721,154	25.3%	1,920,949	5,786,597	33.2%
Technology	-	-		95,938	712,750	13.5%
Cemeteries	101,714	433,625	23.5%	140,395	519,840	27.0%
Community Relations Commission	25,228	99,155	25.4%	39,010	104,840	37.2%
Engineering	242,901	1,198,650	20.3%	301,721	1,064,930	28.3%
Police	1,956,962	8,226,581	23.8%	2,847,207	9,469,328	30.1%
Fire	1,696,976	7,179,895	23.6%	2,530,318	7,806,569	32.4%
Building	119,348	529,244	22.6%	175,899	534,320	32.9%
Planning	104,586	411,460	25.4%	141,705	427,300	33.2%
Central Garage	346,905	1,436,700	24.1%	535,246	1,722,050	31.1%
Environmental Resilience	167,987	914,486	18.4%	277,162	831,320	33.3%
Total General Fund	\$ 7,102,721	\$ 29,921,678	23.7%	\$ 9,956,615	\$ 31,919,055	31.2%
<u>SPECIAL REVENUE FUNDS</u>						
Motor Vehicle Highway	\$ 852,438	\$ 3,411,986	25.0%	\$ 923,934	\$ 3,601,473	25.7%
Local Roads and Streets	13,605	918,215	1.5%	5,140	604,535	0.9%
Parks	497,904	4,045,415	12.3%	784,643	3,910,878	20.1%
Aviation	68,853	381,900	18.0%	93,998	388,454	24.2%
Probation	26,754	103,639	25.8%	36,833	111,005	33.2%
EDIT	620,085	5,329,926	11.6%	257,874	3,722,171	6.9%
Economic Improvement District	47,988	101,000	47.5%	17,493	57,000	30.7%
Parking Lot Fund	-	-		5,360	5,360	100.0%
Opioid Unrestricted Fund	-	-		-	-	
Law Enforcement Continuing Ed	11,415	34,000	33.6%	28,485	36,000	79.1%
Unsafe Building	-	85,000	0.0%	-	85,000	0.0%
Township Fire Support	64,926	400,000	16.2%	61,197	350,000	17.5%
Rainy Day	-	500,000	0.0%	-	-	
Public Safety LOIT	748,010	2,559,000	29.2%	774,308	2,882,400	26.9%
Residential Lease Fees	22,835	88,155	25.9%	16,960	56,835	29.8%
Redevelopment Operating	46,155	375,439	12.3%	75,387	243,820	30.9%
Stormwater Management	124,158	792,536	15.7%	140,226	796,422	17.6%
Total Special Revenue Funds	\$ 3,145,126	\$ 19,126,211	16.4%	\$ 3,221,838	\$ 16,851,353	19.1%

(Quarterly Financial Report Prepared for the June 10, 2024 Goshen Common Council Meeting)

CITY OF GOSHEN, INDIANA

COMPARISON OF APRIL 2023 AND APRIL 2024 EXPENDITURES (Continued)

<u>RESTRICTED FUNDS</u>	<u>April 2023 Budget</u>			<u>April 2024 Budget</u>		
	<u>Expenditures</u>	<u>Budget</u>	<u>% Budget</u>	<u>Expenditures</u>	<u>Budget</u>	<u>% Budget</u>
American Rescue Plan Grant	\$ 128,358	\$ 3,300,000	3.9%	\$ 57,282	\$ 2,878,300	2.0%
Motor Vehicle Highway Restricted	49,454	1,061,406	4.7%	-	1,102,176	0.0%
Opioid Restricted Funds	-	-		-	250,000	0.0%
Court Fees	12,329	56,750	21.7%	29,088	57,250	50.8%
Debt Service	183,250	370,950	49.4%	185,100	369,350	50.1%
Cumulative Capital Improvemet	-	124,313	0.0%	1,901	87,000	2.2%
Cumulative Capital Development	49,750	1,172,346	4.2%	93,481	750,191	12.5%
Cumulative Sewer	13,933	200,000	7.0%	52,201	200,000	26.1%
Cumulative Fire	76,770	852,649	9.0%	62,158	502,649	12.4%
Major Moves	-	-		-	250,000	0.0%
Cumulative Cemetery	-	-		-	-	
General Capital Improvement	-	-		-	-	
2021 GO Bond Proceeds	-	-		-	-	
2015 GO Bond Proceeds	-	-		-	-	
Fire Pension	87,832	566,620	15.5%	145,143	533,638	27.2%
Police Pension	62,939	424,230	14.8%	93,680	439,500	21.3%
Total Restricted Funds	\$ 664,615	\$ 8,129,264	8.2%	\$ 720,034	\$ 7,420,054	9.7%
<u>REDEVELOPMENT FUNDS</u>						
Bond Principal and Interest	\$ 815,731	\$ 823,205	99.1%	\$ 814,219	\$ 823,114	98.9%
SouthEast TIF	4,006,455	13,536,050	29.6%	761,391	10,360,698	7.3%
Lippert/Dierdorff TIF	-	100,000	0.0%	65,160	550,000	11.8%
Consolidated RiverRace/US 33 TIF	1,075,245	4,958,893	21.7%	1,259,505	11,036,659	11.4%
Total Redevelopment Funds	\$ 5,897,431	\$ 19,418,148	30.4%	\$ 2,900,275	\$ 22,770,471	12.7%
Total Expenditures and Budget	\$ 16,809,893	\$ 76,595,301	21.9%	\$ 16,798,762	\$ 78,960,933	21.3%



Rhonda L. Yoder, AICP
PLANNING & ZONING DEPARTMENT, CITY OF GOSHEN
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MEMORANDUM

TO: Goshen Common Council
FROM: Rhonda L. Yoder, City Planner
DATE: June 10, 2024
RE: Ordinance 5186

The Goshen Plan Commission met on May 21, 2024, in regular session and considered a request for the vacation of an east/west alley located between 413 and 415 N 1st Street, with right of way 16.5' in width and approximately 276' in length, extending west of N 1st Street to the river, used as access for the two adjacent properties but otherwise unimproved, and with the owners requesting the entire vacated area to be added to the property at 415 N 1st Street, with the existing gravel to remain as their private driveway, with the following outcome:

Amended request forwarded to the Goshen Common Council with a favorable recommendation by a vote of 7-0.

The recommendation is based upon the following and includes the following conditions:

1. The proposed vacation will not hinder the growth or orderly development of the neighborhood, provided the vacated area is split evenly along the centerline of the alley right of way so the water curb stop for 413 N 1st Street is maintained on the 413 N 1st Street parcel and an adequate building setback is provided for 413 N 1st Street, and provided continued access is provided for both adjacent properties.
2. The proposed vacation will not make access difficult or inconvenient, provided continued access is provided for both adjacent properties.
3. The proposed vacation will not hinder access to a church, school or other public building or place, as the alley right of way does not provide any of the described access.
4. The proposed vacation will not hinder the use of the public way, provided continued access is provided for both adjacent properties, and with a utility easement retained to provide continued access for existing utilities.
5. That title in fee simple to the-vacated right of way of the east/west alley shall be transferred to the adjoining property owners, extending the boundaries of the adjoining parcels of real estate, by parallel line, to the centerline of the public way herein vacated.
6. That these proceedings shall not deprive any public utility of the use of all or part of the public ways herein being vacated if, at the time these proceedings were initiated, the utility was occupying and using all or part of that public way for the location and operation of its facilities. Further, with this vacation the City shall require and retain a general utility easement over the entire vacation.
7. At the time the first of the adjoining properties at 413 N 1st Street and 415 N 1st Street is transferred to a new owner, a cross-access easement shall be established over that portion of the vacation used to provide access to either adjoining property, and a copy of the recorded cross-access easement shall be provided to the Planning office.

No inquiries were received prior to Plan Commission. At the Plan Commission meeting there was one public comment supporting the vacation.

ORDINANCE 5186
VACATION OF PUBLIC WAYS IN THE CITY OF GOSHEN, INDIANA

A Petition having heretofore been filed with the Common Council of the City of Goshen, Indiana, on the 5th day of April 2024 by David A. Runge and Michele L. Runge, requesting the vacation of certain public ways within the Corporate limits of the City of Goshen, Indiana, and more particularly described therein.

The public hearing before the Goshen City Plan Commission and public hearing before the Common Council of the City of Goshen, Indiana, having been scheduled as to said Petition with the hearing before the Goshen City Plan Commission having been held on the 21st day of May 2024, and with the hearing before the Common Council of the City of Goshen, Indiana, having been held on the 10th day of June 2024, and formal legal publication notice as to said hearings having been published in the Goshen News on the 11th day of May 2024, said legal notice having been published being in the words and figures following.

The Common Council of the City of Goshen having received a recommendation and/or report from the Goshen City Plan Commission and having conducted a public hearing on said Petition on the date set forth in said Notice and being duly advised in the premises now finds as follows:

1. The Petition heretofore filed is in proper order, and that proper legal notices of the public hearing conducted with regard to said Petition have been mailed and published.
2. The vacation of the public ways in question would not hinder the growth or orderly development of the City of Goshen, Indiana, or of the neighborhood in which it is located or to which it is contiguous.
3. The vacation of the public ways in question will not make access to the lands of any property owners within the City of Goshen, Indiana, by means of public way difficult or inconvenient.
4. The vacation of the public ways in question will not hinder the public's access to a church, school, or other public building or place.
5. The vacation of the public ways in question will not hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

NOW THEREFORE, be it ordained, ordered, adjudged, and decreed by the Common Council of the City of Goshen, as follows:

1. That said Petition is hereby, in all respects approved and confirmed and the request therein made to vacate public ways is granted.
2. That the following described public ways situated in the City of Goshen, Indiana, are hereby vacated, said public ways being generally described as follows:

An east/west alley, 16.5' in width, approximately 276' in length, extending west of N 1st Street to the river, located between
413 N 1st Street and 415 N 1st Street,

and more particularly described as follows:

In the plat of Hood and Britton's Addition to the City of Goshen, Indiana, the east/west alley right of way between Lots 312 and 313, extending west of the N 1st Street right of way, as found in Deed Record 1, Page 36, Office of the Recorder of Elkhart County, Indiana.

3. That title in fee simple to the-vacated right of way of the east/west alley shall be transferred to the adjoining property owners, extending the boundaries of the adjoining parcels of real estate, by parallel line, to the centerline of the public way herein vacated.
4. That these proceedings shall not deprive any public utility of the use of all or part of the public ways herein being vacated if, at the time these proceedings were initiated, the utility was occupying and using all or part of that public way for the location and operation of its facilities. Further, with this vacation the City shall require and retain a general utility easement over the entire vacation.
5. At the time the first of the adjoining properties at 413 N 1st Street and 415 N 1st Street is transferred to a new owner, a cross-access easement shall be established over that portion of the vacation used to provide access to either adjoining property, and a copy of the recorded cross-access easement shall be provided to the Planning office.

6. This Ordinance shall become effective upon passage by the Council, approved by the Mayor. The Planning office of the City of Goshen shall be responsible for the recording of this Ordinance. A copy of this Ordinance stamped by the County Recorder as having been filed in that office shall be provided to the petitioners by the Planning office of the City of Goshen, with the petitioner being responsible for the recording expenses.

PASSED by the Common Council of the City of Goshen on _____, 2024.

Presiding Officer
Printed Name: _____

Attest:

Printed Name: _____
Title: _____

PRESENTED to the Mayor of the City of Goshen on _____, 2024 at _____ a.m./p.m.

Printed Name: _____
Title: _____

APPROVED AND ADOPTED by the Mayor of the City of Goshen on _____, 2024.

Gina Leichty, Mayor

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each social security number in this document, unless required by law. Rhonda Yoder

This instrument prepared by: Rhonda Yoder, Goshen City Planning, City of Goshen, Indiana

To: Goshen City Plan Commission/Goshen Common Council
From: Rhonda L. Yoder, Planning & Zoning Administrator
Subject: 24-02V, Vacation of East/West Alley Right of Way
413 & 415 N 1st Street
Date: May 21, 2024

ANALYSIS

David A. and Michele L. Runge request the vacation of an east/west alley located between 413 and 415 N 1st Street. The right of way is 16.5' in width, approximately 276' in length, extending west of N 1st Street to the river. The right of way is used as access for the two adjacent properties, but is otherwise unimproved. If the vacation is approved, the owners request the entire vacated area to be added to the property at 415 N 1st Street, with the existing gravel to remain as the private driveway for 415 N 1st Street.

The two properties adjacent to the alley are currently under single ownership, and the alley right of way to be vacated provides access for both properties. The west portion of the alley is unimproved, but the east portion is gravel where it provides access to the two adjacent properties.

According to Indiana Code 36-7-3-13 remonstrance or objection to a vacation may only be filed on the following grounds:

- (1) *The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.*
- (2) *The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient.*
- (3) *The vacation would hinder the public's access to a church, school, or other public building or place.*
- (4) *The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.*

The Traffic Commission reviewed the proposed vacation on April 18, 2024, and recommended approval of the proposed alley vacation, but had concerns about ensuring vehicular access for both properties if the entire vacated area becomes part of 415 N 1st Street.

The Planning office has contacted NIPSCO, Frontier, Comcast, Goshen City Utilities, Goshen Fire Department, Community Fiber, and Waste-Away Group. There are existing utilities in the public right of way in the area of the proposed vacation, so a general utility easement is required to be retained over the entire vacation, as a vacation may not deprive a public utility of the use of the right of way. Access to the utility easement must be maintained and remain unobstructed, and no encroachments are permitted within the utility easement, including, for example, trees, fences and structures.

When public right of way is vacated, generally title for the vacated area goes to the adjacent property owners, usually split evenly along the centerline of the right of way if the vacated area was originally platted from the same subdivision. In this case, the single property owner has requested the entire vacated area be transferred to the property at 415 N 1st Street. There are several items to consider if the entire vacated area would be transferred to 415 N 1st Street:

- 413 N 1st Street water curb stop would be on 415 N 1st Street parcel (not allowed);
- Continuing an apparent 0' north building setback for the existing house at 413 N 1st Street; and
- Ensuring continued vehicular access for both properties.

Per the enclosed water service card, the water curb stop for 413 N 1st Street is located within the alley, and per Goshen Utilities if the alley is vacated the curb stop for 413 N 1st Street must remain located on the 413 N 1st Street parcel and may not be located on the 415 N 1st Street parcel.

Based on the following photo and enclosed aerial images, it appears the 16.5' alley extends very close to the north building wall of the existing house at 413 N 1st Street. In the absence of a site plan or survey that locates the alley in relation to the two adjacent properties, if the alley is vacated the vacated area should be split evenly along the centerline between the two adjacent properties so that a reasonable building setback is established for 413 N 1st Street, and to ensure no encroachment is created by the alley vacation (if the existing 413 N 1st Street structure extends into the alley, for example). With a 0' building setback, the north building wall of 413 N 1st Street is subject to more stringent building codes, and although the utility easement required by the alley vacation will not allow the structure at 413 N 1st Street to be extended into the vacated area, the vacation would increase the existing north building setback if the vacated area is split evenly along the centerline between the two adjacent properties.



Related to continued vehicular access, if the entire vacated area is transferred to 415 N 1st Street, then either a cross-access easement would be required over the vacated area to allow access for 413 N 1st Street, or a new driveway would need to be installed for 413 N 1st Street. If the vacated area is split between the two properties, a cross-access easement would also be needed to allow access for both properties. Because the two properties are under single ownership, a cross-access easement cannot be established until there are two separate owners.

RECOMMENDATIONS

Staff recommends the Plan Commission grant a favorable recommendation and City Council grant approval of an amended request for the vacation of an east/west alley located between 413 and 415 N 1st Street, 16.5' in width, approximately 276' in length, extending west of N 1st Street to the river, to require the vacated area be split evenly along the centerline of the alley right of way, based upon the following and with the noted conditions:

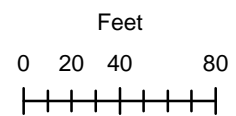
1. The proposed vacation will not hinder the growth or orderly development of the neighborhood, provided the vacated area is split evenly along the centerline of the alley right of way so the water curb stop for 413 N 1st Street is maintained on the 413 N 1st Street parcel and an adequate building setback is provided for 413 N 1st Street, and provided continued access is provided for both adjacent properties.
2. The proposed vacation will not make access difficult or inconvenient, provided continued access is provided for both adjacent properties.
3. The proposed vacation will not hinder access to a church, school or other public building or place, as the alley right of way does not provide any of the described access.
4. The proposed vacation will not hinder the use of the public way, provided continued access is provided for both adjacent properties, and with a utility easement retained to provide continued access for existing utilities.

With approval, the following conditions shall apply:

1. That title in fee simple to the-vacated right of way of the east/west alley shall be transferred to the adjoining property owners, extending the boundaries of the adjoining parcels of real estate, by parallel line, to the centerline of the public way herein vacated.
2. That these proceedings shall not deprive any public utility of the use of all or part of the public ways herein being vacated if, at the time these proceedings were initiated, the utility was occupying and using all or part of that public way for the location and operation of its facilities. Further, with this vacation the City shall require and retain a general utility easement over the entire vacation.
3. At the time the first of the adjoining properties at 413 N 1st Street and 415 N 1st Street is transferred to a new owner, a cross-access easement shall be established over that portion of the vacation used to provide access to either adjoining property, and a copy of the recorded cross-access easement shall be provided to the Planning office.



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1 inch = 80 feet

E/W Alley between 413 & 415 N 1st St

2023 Aerial
Printed April 23, 2024

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



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1 inch = 30 feet

413 & 415 N 1st Street

2023 Aerial
Printed May 13, 2024

The City of Goshen

Department of
Planning & Zoning

204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



24-12-4
 R. 11-12-4
 E. 11-12-4
 S. 11-12-4



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 ELKHART COUNTY, INDIANA

SCALE: 1" = 100'

11-9F
 ELKHART TWP.

SEC. 9 T.36N. R.6E.

11-9B

413
1st St

11'

sidewalk



Catch
Basin

85'

1st st.





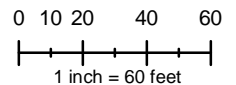
FIRST STREET

**Zone AE
Floodway**

**Zone AE
Fringe**

WILKINSON STREET

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413 & 415 N 1st Street

2023 Aerial with Approximate FIRM
Printed January 3, 2024

The City of Goshen
Department of
Planning & Zoning
204 East Jefferson Street, Goshen, Indiana 46528
Phone: 574-534-3600 Fax: 574-533-8626



City Clerk-Treasurer

CITY OF GOSHEN

202 South Fifth Street, Suite 2 • Goshen, IN 46528-3714

Phone (574) 533-8625 • Fax (574) 533-9740

clerktreasurer@goshencity.com • www.goshenindiana.org

TO: Mayor Gina Leichty and the Goshen Common Council

FROM: Jeffery Weaver, Deputy Clerk-Treasurer

RE: Proposed Ordinance 5187, Additional Appropriations

DATE: June 10, 2024

Thank you for considering Ordinance 5187, Additional Appropriations, which requests authorization from the Council and Mayor to spend additional and available money from various accounts. The Mayor and Clerk-Treasurer requested this ordinance because the Common Council is the City's fiscal body which authorizes the City's budget and any budget adjustments.

As you know, an appropriation is "permission to spend available money" and is tied to a specific fund. Within a fund there are four spending categories and multiple accounts. It is possible to get permission to move budgeted spending between accounts and categories, but sometimes the total appropriation within a fund is insufficient for the fund's total spending, due to emergencies, unforeseen circumstances, or budget errors. In this case, the Mayor and Clerk-Treasurer propose an additional appropriation if the expenditures are necessary and paying the expenditure might otherwise overspend the budgeted appropriation. After Council approval, the Clerk-Treasurer submits the additional appropriation to the Department of Local Government Finance ("DLGF") for final approval. The DLGF will only approve an additional appropriation if the Clerk-Treasurer proves that the City has cash available for the additional appropriation and the following year's budget.

Here's the background on these additional appropriation requests:

- When the Police Department leaders prepared their 2024 budget, the 2024 holiday schedule had not yet been completed. The 2024 Salary Ordinance gives City employees two more holidays than originally planned, requiring additional holiday pay for the Police Department.
- The City's General Obligation Bonds were issued in 2021 to prepare, renovate, modernize, and construct additional office capacity for the City offices. The City contracted with a designer who is now reviewing current capacity issues, and his contract will be paid from the General Obligation Bond Construction Fund.
- Each year the City of Goshen reimburses the Elkhart County Government for approximately 20% of the expenses incurred in managing the Greater Elkhart County Stormwater Partnership. Goshen's Stormwater Department usually budgets \$25,000 each year, but the expense rose to \$31,530.60 for the 2023 calendar year (paid in arrears). To meet the City's obligations to the Partnership, the Stormwater Fund requires an additional appropriation to make the required payment this year.

These funds have sufficient cash balances for additional appropriations. If the ordinance is approved by the Council, the Clerk-Treasurer will submit necessary information to the DLGF for final approval.

ORDINANCE 5187

Additional Appropriations

WHEREAS it has been determined that it is necessary to appropriate more money than the amount appropriated in the current year’s annual budget,

WHEREAS pursuant to notice given, the Goshen Common Council conducted a public hearing on the proposed additional appropriation,

NOW THEREFORE, BE IT ORDAINED that Goshen Common Council makes the following additional appropriation of money in excess of the current year’s budget for the fund(s) named:

GENERAL FUND

101-520-11-411.0150 POLICE / Holiday Pay \$80,000.00

2021 GENERAL OBLIGATION BOND CONSTRUCTION FUND

485-510-00-431.0200 21 GOB / Professional Services \$50,000.00

STORMWATER MANAGEMENT FUND

439-530-00-431.0501 STORMWATER MGMT / ELK CO MS4 \$6,600.00

PASSED by the Goshen Common Council on _____, 2024.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at _____ a.m./p.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina Leichty, Mayor



City Clerk-Treasurer
CITY OF GOSHEN

202 South Fifth Street, Suite 2 • Goshen, IN 46528-3714

Phone (574) 533-8625 • Fax (574) 533-9740

clerktreasurer@goshencity.com • www.goshenindiana.org

TO: Mayor Gina Leichty and the Goshen Common Council

FROM: Jeffery Weaver, Deputy Clerk-Treasurer

RE: Proposed Council Resolution 2024-10, A Resolution Providing for the Transfer Of Appropriations

DATE: June 10, 2024

Thank you for considering Resolution 2024-10 which requests authorization from the Council and Mayor to move available resources between major categories within the City's funds. The Mayor and Clerk-Treasurer requested this resolution because the Common Council is the City's fiscal body which authorizes the City's budget and any budget adjustments.

An appropriation is "permission to spend available money" and is tied to a specific fund. Within a fund there are four spending categories and multiple accounts. The Department of Local Government Finance ("DLGF") requires Council approval to move an appropriation from one category to another. The Council can approve this when a department needs additional room to spend in one category and has available appropriations in another category.

By moving an appropriation from one category to another, the Council will only change the category from which the City pays an expenditure. The Council is not approving any additional spending with this resolution, so the fund's total appropriation remains the same.

Due to the sharp increase in applicants this year, the Police Department is requesting a transfer to the Medical Exams line. These exams are required for new applicants to the police department.

The 2024 budget included a line for "Fitness" in the Personal Services category with the intent of offering an additional benefit for employees. While the fitness initiative has not yet taken off, the Mayor's office has spearheaded some employee recognition and appreciation initiatives which can be paid from the same fund. These are expenses that fall under the "Other Services & Charges" category instead of the "Personal Services" (i.e. fringe benefit) category.

If the Council approves the proposed category transfer, the Clerk-Treasurer will then register the adjustments in the City's books and communicate the transfer to the department. This category transfer is an adjustment that only requires Council approval to be final and does not require notification to the DLGF.

**GOSHEN COMMON COUNCIL
Resolution 2024-02**

A Resolution Providing for the Transfer of Appropriations

WHEREAS it is necessary to transfer funds budget categories to cover expenses.

WHEREAS certain existing budget appropriations have unobligated funds that are available for the category transfer.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Common Council approves the transfer of funds between the following budget categories:

GENERAL FUND CATEGORY TRANSFER FROM:

Budget Category: Personal Services
Line Number: 101-520-11-413.1100
Line Name: Police / 2002 Benefit
Amount of the Transfer: (\$5,500.00)

GENERAL FUND CATEGORY TRANSFER TO:

Budget Category: Other Services & Charges
Line Number: 101-520-11-431.0501
Line Name: Police / Medical Expenses
Amount of the Transfer: \$5,500.00
Purpose of Transfer: To fund increased medical exams for applicants

CCI (CIGARETTE TAX) FUND CATEGORY TRANSFER FROM:

Budget Category: Personal Services
Line Number: 401-510-00-413.0702
Line Name: CCI / Fitness
Amount of the Transfer: (\$20,000.00)

CCI (CIGARETTE TAX) FUND CATEGORY TRANSFER TO:

Budget Category: Other Services & Charges
Line Number: 401-510-00-439.0901
Line Name: CCI / Employee Initiatives
Amount of the Transfer: \$20,000.00
Purpose of Transfer: To move funds to a line more fitting for employee recognition and appreciation initiatives

PASSED by the Goshen Common Council on June _____, 2024.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on June _____, 2024, at _____ a.m./p.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on June _____, 2024.

Gina Leichty, Mayor

ORDINANCE NO. 5188

Fire Prevention Ordinance of the City of Goshen, Indiana

WHEREAS, Indiana Code 36-1-3 confers upon units of government within the State of Indiana such powers as necessary or desirable to conduct the affairs of local government;

WHEREAS, I.C. § 36-4-6-18 authorizes the Common Council of the City of Goshen, Indiana to pass such ordinances, orders, resolutions and motions as may be necessary and proper for the governmental unit to fulfill and satisfy the responsibilities and duties of said governmental unit;

WHEREAS, the Goshen Fire Department provides fire protection and prevention for the City of Goshen; and

WHEREAS, it is the desire of the Common Council to update and modernize the fire prevention regulations for the City of Goshen to assist the Goshen Fire Department in their mission to protect life and property.

NOW THEREFORE BE IT ORDAINED, by the Common Council of the City of Goshen, Indiana, as follows:

Article I. **General Requirements**

Section 1. Title. This ordinance and all material included herein by reference shall be known as the "Fire Prevention Ordinance of Goshen, Indiana" ("Ordinance").

Section 2. Purpose. The purpose of this Ordinance is to protect the life, public safety, health, and general welfare of the citizens of Goshen, Indiana, and shall be construed in such a manner as to effectuate this purpose.

Section 3. Authority. The Fire Chief, or the Fire Chief's designee, is hereby authorized and directed to administer and enforce the following:

- A. All provisions of this Ordinance.
- B. Variances granted in accordance with I.C. 22-13-2-11.
- C. Orders issued under I.C. 22-12-7.

Section 4. Applicability. The provisions of this Ordinance are supplemental to the Indiana General Administrative Rules, Indiana Fire Code, Indiana Building Code, Indiana Mechanical Code, and Indiana Fuel Gas Code as adopted by the Indiana Fire Prevention and Building Safety Commission. The provisions of this Ordinance apply to maintenance of Fire Prevention and Life Safety Features as herein described. The provisions of this Ordinance apply to existing conditions as well as to the conditions arising after the adoption thereof.

Section 5. Conflicting Provisions. If any provision of this Ordinance is found to be in conflict with any applicable law or ordinance of the City of Goshen, Indiana, whether existing on the effective date of this Ordinance or later adopted, the provision which establishes the higher standard for the promotion and protection of the safety and welfare of the public applies.

Section 6. Minimum Standards. All rules of the Indiana Fire Prevention and Building Safety Commission as set out in Articles 12, 13, 18, 22 and 25 of Title 675 of the Indiana Administrative Code are incorporated in this Ordinance and shall include all later

amendments to that article as published in the Indiana Register or the Indiana Administrative Code with effective dates as fixed therein. Any special processes or procedures not addressed in the Indiana Fire Code (675 I.A.C. 22) or this Ordinance shall be subject to applications found in Fire Safety Standards recognized by Indiana Fire Code (675 I.A.C. 22), Referenced Standards and as approved by the Fire Chief, or the Fire Chief's designee. Any special processes or procedures not addressed in this Ordinance shall be subject to applications found in the current editions of the National Fire Protection Association (NFPA) Standards or other recognized Fire Safety Standards - subject to the rules of the Indiana Fire Prevention and Building Safety Commission.

Section 7. Effect of Adoption on Prior Ordinance. The expressed or implied repeal or amendment by this Ordinance, of any other ordinance or part of any other ordinance, does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this Ordinance. Such rights, liabilities, and other proceedings are continued and penalties shall be imposed and enforced under the repealed or amended ordinance as if this Ordinance had not been adopted.

Section 8. Definitions.

- A. "Building Code" means the Indiana Building Code found within 675 I.A.C. 13.
- B. "Class 1 Structure" has the meaning ascribed thereto in I.C.22-12-1-4.
- C. "Class 2 Structure" has the meaning ascribed thereto in I.C.22-12-1-5.
- D. "Commission" refers to the Indiana Fire Prevention Building Safety Commission as established by I.C. 22- 12-2-1.
- E. "Crowd Manager" has the meaning ascribed thereto in 675 I.A.C. 22-2.5.
- F. "Fire Chief" means the chief officer of the Goshen Fire Department.
- G. "Fire Code" refers to the Indiana Fire Code found within 675 I.A.C. 22.
- H. "Fire Department" has the meaning ascribed thereto in I.C. 36-8-17-2.
- I. "Fuel Gas Code" refers to the Indiana Fuel Gas Code found within 675 I.A.C. 25.
- J. "General Administrative Rules" means the General Administrative Rules of the Indiana Fire Prevention and Building and Safety Commission located at 675 I.A.C. 12.
- K. "I.A.C." means the Indiana Administrative Code.
- L. "I.C." means the Indiana Code of the Indiana General Assembly.
- M. "Key Box" has the meaning ascribed thereto in 675 I.A.C. 22.
- N. "Mechanical Code" means Indiana Mechanical Code found within 675 I.A.C. 18.
- O. "Notice of Violation" means a written notice issued by the Fire Department usually in the form of an inspection report listing violations.
- P. "Owner" has the meaning ascribed thereto in 675 I.A.C. 22.
- Q. "Person" has the meaning ascribed thereto in I.C. 22-12-1-18.
- R. "Qualified Person" means a person who either holds current National Institute for Certification in Engineering Technologies (NICET) certification in the fire

protection system being installed, serviced, or repaired, or has successfully completed a course of instruction specific to the equipment being installed, serviced, or repaired. Such instruction shall have been approved by the manufacturer of the equipment or their authorized representative.

TERMS NOT DEFINED: Where terms are not defined in this Fire Prevention Code and are defined in the General Administrative Rules, the Indiana Building Code, Indiana Fire Code, Indiana Mechanical Code, or Indiana Fuel Gas Code, such terms shall have the meanings ascribed to them as in those codes. Where terms are not defined through the methods authorized, such terms shall have ordinarily accepted meanings such as the context implies.

Article II. **Administration And Enforcement**

- Section 1. **Fire Scene Authority.** The Fire Chief, or the Fire Chief's designee, at any fire, explosion, rescue, emergency medical or hazardous materials incident, or any other emergency which poses imminent threat to life, environment, or property, shall have the authority to direct operations as necessary to control, mitigate, or eliminate the emergency. It shall be unlawful for any Person to impede the emergency operations of the City of Goshen Fire Department.
- Section 2. **Emergency Lines and Limits.** The Fire Chief, or the Fire Chief's designee, may establish emergency lines and limits; and, barricade or guard from the general public such emergency lines and limits. The Fire Chief, or the Fire Chief's designee, may create an area in which only firefighters, law enforcement personnel, other emergency responders, other people, or agencies having a direct interest in any property threatened by a fire, explosion, hazardous material incident, other emergency, other people, or agencies at the discretion of the Fire Chief, or the Fire Chief's designee, shall be admitted. It shall be unlawful for any unauthorized Person to cross such emergency lines or limits.
- Section 3. **Fire Investigations.** The Fire Chief, or the Fire Chief's designee, shall perform fire investigations pursuant to I.C. 36-8-17-7. The Fire Chief, or the Fire Chief's designee, is authorized to conduct an origin and cause investigation of all fires and explosions within the service district of the City of Goshen Fire Department. It shall be unlawful for any Person to impede the Fire Chief, or the Fire Chief's designee, from conducting an origin and cause investigation.
- Section 4. **Fire and Life Safety Inspections.** The Fire Chief, or the Fire Chief's designee, shall conduct fire and life safety inspections in Class 1 Structures pursuant to I.C. 36-8-17-8. The Fire Chief, or the Fire Chief's designee, shall inspect Class 1 Structures as often as necessary for the purpose of ascertaining and causing to be corrected any violation of the Indiana General Administrative Rules, Indiana Fire Code, Indiana Building Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Ordinance, or any other rule of the Commission.
- Section 5. **Enforcement Authority.** The Fire Chief, or the Fire Chief's designee, shall possess the authority to enforce the provisions of this Fire Prevention Ordinance. The Fire Chief, or the Fire Chief's designee, shall have the authority to enforce provisions of the Indiana General Administrative Rules, Indiana Fire Code, Indiana Building Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Ordinance, or any other rule of the Commission. Such enforcement shall include, but is not limited to:

- A. The prevention of fires.
- B. The handling, storage, sale, and use of flammable liquids, explosives, combustible, and hazardous materials.
- C. The adequacy of means of egress from all places in which numbers of people live, work, or congregate from time to time for any purpose.
- D. The location, installation, and maintenance of smoke alarms, fire alarm systems, and fire suppression systems.
- E. The existence of recognized hazardous conditions that present a clear and immediate hazard to life and property.
- F. The Fire Chief, or the Fire Chief's designee, shall have the authority to institute legal actions in cases of non-compliance. The Fire Chief, or the Fire Chief's designee, shall have the authority to initiate legal action in accordance with locally prescribed avenues covering the violations of the Indiana General Administrative Rules, Indiana Fire Code, Indiana Building Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Ordinance, or any other rule of the Commission.

Section 6. Determination of Violation. Whenever the Fire Chief, or the Fire Chief's designee, determines by inspection that an apparent or actual violation of the Indiana General Administrative Rules, Indiana Fire Code, Indiana Building Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Code, any other rule of the Commission or a hazardous condition exists upon any Class 1 Structure within the City of Goshen, Indiana, the person making such determination shall issue such Notice of Violation or order as may be necessary for the enforcement of the Indiana General Administrative Rules, Indiana Fire Code, Indiana Building Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Code, or any other rule of the Commission.

Section 7. Time Limit. Orders shall set forth a time limit for compliance dependent upon the hazard created by the violation(s).

Section 8. Notice of Violation. Under I.C. 36-8-17-9, an order of enforcement of the Indiana General Administrative Rules, Indiana Fire Code, Indiana Building Code, Indiana Mechanical Code, Indiana Fuel Gas Code, this Fire Prevention Ordinance, or any other rule of the Commission, which is within the jurisdiction of the Fire Chief, or the Fire Chief's designee, may seek the correction of any violation or the elimination of any hazardous condition by the methods specified in this code or by any other appropriate remedy or procedure provided by law. The failure of the Fire Department to inspect or to issue a Notice of Violation or order in accordance with this Ordinance shall not constitute approval of any violation or non-compliance. Any Notice of Violation or order issued pursuant to this section shall be conveyed upon the Owner, operator, occupant, or other Person responsible for the building or property. Conveyance of such order shall be by one of the following methods: Personal service (by affixing a copy thereof in a conspicuous place at the entrance of said building or premises), by mailing a copy thereof to such responsible Person by first-class mail to his or her last known address, by fax, or electronic mail pursuant to I.C. 4-21.5-3.

Section 9. Imminent Danger. The Fire Chief, or the Fire Chief's designee, may stop an operation or require the evacuation of any Class 1 Structure or portion thereof under the provisions of I.C. 36-8-17-9 when it is determined that conduct or conditions of the property:

- A. Present a clear and immediate hazard of death or serious bodily injury to any Person other than a trespasser;
- B. Is prohibited without a permit, registration, certification, authorization, variance, exemption, or other license required under I.C. 22-14, another Indiana statute or rule of the Commission; or
- C. Will conceal a violation of law.

Section 10. Duty to Correct Violations. The Owner or Person in control of any premises or building upon which a violation or hazard exists shall:

- A. Cease and correct the violation.
- B. Protect Persons and property from the hazards of the violation.

Section 11. Appeal from Orders. An Owner or occupant who remains aggrieved by an order or decision issued pursuant to this Fire Prevention Ordinance, and the matter involves a rule of the Indiana Fire Prevention and Building Safety Commission, may appeal to the Indiana Fire Prevention and Building Safety Commission as set forth by I.C. 36-8-17.

Section 12. Local Ordinance Appeal Process. Appeals of an interpretation or application of this ordinance may be made in a writing filed with the City of Goshen Clerk-Treasurer not more than 30 calendar days following the challenged interpretation or application and shall be heard and decided by the City Board of Public Works and Safety.

Article III. **Emergency Planning**

Section 1. Crowd Manager Training and Qualifications. Crowd Managers shall receive training, approved by the Fire Chief or the Fire Chief's designee, in crowd management techniques. Crowd Managers shall be:

- A. At least 21 years of age;
- B. The Owner or operator of the business, or under the direct control and supervision of said Owner or operator; and
- C. Responsible for:
 - 1. Maintaining clear paths of egress, assuring that the facility does not exceed its occupant load limit, initiating a fire alarm if necessary, directing occupants to exits;
 - 2. Assuring general fire and life safety awareness of employees and occupants, including assuring that exit announcements are made; and
 - 3. Utilizing portable fire extinguishers as necessary.

Section 2. When Required. One trained Crowd Manager or Crowd Manager supervisor shall be provided for assembly occupancies. In the event the occupant load exceeds 250, additional trained Crowd Managers or Crowd Manager supervisors shall be provided at a ratio of 1 Crowd Manager or Crowd Manager supervisor for every 250 occupants.

Exception: for assembly occupancies used exclusively for religious worship with an occupant load not exceeding 2,000, the ratio of trained Crowd Managers to occupants may be reduced if approved by the Fire Chief or the Fire Chief's designee, when the existence of an approved, supervised automatic sprinkler system and the nature of the event warrant a reduction. Conversely, the Fire Chief, or the Fire Chief's designee, shall require a fire watch in accordance with 675 I.A.C. 22 if conditions or the nature of the activity warrant.

Article IV. **Fire Service Features**

- Section 1. **Fire Lane Markings.** The location of fire lanes shall be established by the Fire Chief, or the Fire Chief's designee. The Fire Chief, or the Fire Chief's designee, can require signage or striping or any combination. Design of the fire lane markings shall be approved by the Fire Chief, or the Fire Chief's designee. The erection of and maintenance of fire lane marking signs and striping shall be the responsibility of the property Owner. All markings shall remain in good visible condition as determined by the Fire Chief or the Fire Chief's designee. The parking or standing of any obstruction, including motor vehicles, within established fire lane markings on private or public property shall be prohibited.
- Section 2. **Gates or Barricades.** The Fire Chief, or the Fire Chief's designee, is authorized to approve the installation of approved gates or other barricades across fire apparatus access roads, trails or other access ways, not including public streets, alleys or highways. Approved gates or barricades shall be maintained by the property Owner.
- Section 3. **Key Boxes.** Any new Class 1 Structure that is protected by an automatic sprinkler system or fire alarm system which sends a local or transmitted signal, and access to, or within such structure, or an area on that property is unduly difficult because of secure openings, and where immediate access is necessary for lifesaving or firefighting purposes or property preservation, the Fire Chief, or the Fire Chief's designee, shall require a Key Box or other rapid entry product to be installed in an approved location(s). The Key Box or rapid entry product manufacturer must be approved by the Fire Chief, or the Fire Chief's designee.
- Section 4. **Water Supply.** A water supply capable of supplying the required fire flow, for firefighting purposes, as determined by Section 5 of this Article, must be provided to all premises or property upon which a Class 1 Structure, a portion of a Class 1 Structure or a Class 2 Structure is hereafter constructed. The water supply shall be provided as follows:
- A. When a municipal water supply is available and contingent to the premises or property, fire hydrants and mains shall be installed and capable of providing the required fire flow as determined by Section 6 of this Article.
 - B. When a municipal water supply is not available, an alternative water supply may be approved. The alternative water supply shall consist of a pond, stream, river, canal, lake, reservoir, quarry, pressure tank, elevated tank or other fixed system capable of providing the required fire flow as determined by Section 5 of this Article. The means of acquiring the water from an alternative water supply shall be accessible and the connection(s) shall be approved by the Fire Chief, or the Fire Chief's designee. The Owner shall verify the fire flow

requirements with the Fire Chief, or the Fire Chief's designee, prior to final design and construction.

Section 5. Fire Flow Requirements. In determining the requirements for fire flow, the Fire Chief, or the Fire Chief's designee, shall utilize 675 I.A.C. 22 Appendix B - "Fire Flow Requirements for Buildings" and 675 I.A.C. 22 Appendix C - "Fire Hydrant Locations and Distribution" as a guide. The requirements in Appendix B & C may not be made more stringent by the Fire Chief, or the Fire Chief's designee.

Article V. **Emergency And Standby Power**

Section 1. Emergency Lighting Activation Test. An activation test of the emergency lighting equipment shall be completed monthly. The activation test shall ensure the emergency lighting activates automatically upon normal electrical disconnect and stays sufficiently illuminated for a minimum of 30 seconds.

Section 2. Emergency Lighting Activation Test Record. Records for the activation test shall be maintained on the premises for a minimum of three (3) years and submitted to the Fire Chief, or the Fire Chief's designee, upon request. The record must include the location of the emergency lighting tested, whether the unit passed or failed, the date of the test, and the Person completing the test.

Section 3. Emergency Lighting Power Test Record. The ninety (90) minute power test shall be maintained on the premises for a minimum of 3 years and submitted to the Fire Chief, or the Fire Chief's designee, upon request. The record shall include the location of the emergency lighting tested, whether the unit passed or failed, the date of the test, and the Person completing the test.

Article VI. **Fire Protection Systems**

Section 1. Construction Documents. Plans for Fire Alarms Systems, Water-Based Fire Protection Systems, Fire Pumps, Special Hazard Fire Suppression Systems, High-piled Storage Arrangements and Firestop Systems shall be submitted for review. Each applicable submittal must contain the following information:

A. Sprinkler / Standpipe Systems:

1. One (1) Full Set of Sprinkler / Standpipe Plans.
2. One (1) Full Set of Sprinkler / Standpipe Calculations.
3. One (1) Copy of the Sprinkler Construction Design Release (CDR).
4. One (1) Set of Manufacturer's *Cut-Sheets* for all sprinkler heads in the design.

B. Fire Alarm Systems:

1. One (1) Full Set of Fire Alarm Plans.
2. One (1) Set of Battery Calculations.
3. One (1) Copy of the Fire Alarm Construction Design Release (CDR).
4. One (1) Set of Manufacturer's *Cut-Sheets* for the Fire Alarm Control Panel (FACP) and Fire Alarm Components.
5. One (1) Fire Alarm Sequence of Operation Matrix.

- C. Special Hazard Fire Protection Systems:
 - 1. One (1) Set of Plans (if applicable).
 - 2. One (1) Set of Engineering Data (if applicable).
 - 3. One (1) Copy of the Construction Design Release (if applicable).
 - 4. One (1) Set of Manufacturer's *Cut-Sheets* for System Components.
- D. Fire Pumps:
 - 1. One (1) Copy of the Manufacturer's Fire Pump Specifications.
 - 2. One (1) Copy of the Manufacturer's Certified Pump Test Characteristic Curve
- E. Firestop Systems:
 - 1. Through-Penetration Firestop Systems.
 - 2. Membrane-Penetration Firestop Systems.
 - 3. Fire-Resistant Joint Systems.
 - 4. Perimeter Fire Barrier Systems.
 - 5. Fire-Rated Duct and Air-Transfer Openings.

Section 2. Fire Department Connections. The location of the Fire Department connections shall be approved by the Fire Chief, or the Fire Chief's designee, with respect to fire hydrants, Fire Department access roads, fire apparatus water supply lines, buildings, utilities and landscaping. Immediate access to Fire Department connections shall be maintained at all times and not hindered by obstructions including fences, bushes, trees, walls or other fixed or removable objects.

Section 3. Fire Extinguishers. Portable fire extinguishers shall be installed and maintained in Class 1 Structures as set forth in the referenced edition of NFPA 10 as published by the National Fire Protection Association.

Section 4. Qualified Contractors. Prior to performing installation, service, repair, inspection or maintenance of fire protection systems, the Qualified Person conducting such function(s) shall submit documentation to the fire chief, or the Fire Chief's designee, verifying certification, for the company or individual, for each type of fire protection system being installed, serviced, repaired, inspected or maintained. Certification shall conform to the requirements as outlined in each applicable NFPA standard or from the manufacturer of such equipment.

Article VII. **Enforcement, Penalties. And Fees**

Section 1. This Ordinance may be enforced in the City's Ordinance Violations Bureau. A person who violates this Ordinance shall on the first offense be ordered to pay a Civil Penalty in the amount of \$175.00. A person who violates this Ordinance a second time within a Twelve (12) month period shall be ordered to pay a Civil Penalty of \$225.00, and a person will be ordered to pay \$250.00 for a third violation within that Twelve (12) month period.

Section 2. The City may enforce this Ordinance by filing an action in any court of general jurisdiction to recover a fine in a sum not to exceed \$2,500.00.

Section 3. Each day of violating this Ordinance shall be construed as a separate violation.

Article VIII. **Miscellaneous**

Section 1. Other Ordinances.

All ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of the inconsistency or conflict.

Section 2. Severability.

The provisions of this ordinance are severable, and the invalidity of any phrase, clause, or part of this ordinance shall not affect the validity or effectiveness of the remainder of the ordinance.

Section 3. Effective Date.

This Ordinance shall be in full force and effect from and after its passage, approval, and adoption according to the laws of the State of Indiana.

ADOPTED, PASSED, AND ORDAINED by the Goshen Common Council this _____ day of June, 2024.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of ____:____
____.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

ORDINANCE 5189

An Ordinance Amending Rules for the Services of the Goshen Sewer Utility and Pretreatment Requirements and Standards

WHEREAS, the City of Goshen, Indiana Common Council previously adopted Ordinance 4333 (Regulations Governing the Services of the Goshen Sewer Utility) to establish regulations governing the services of the Goshen Sewer Utility, and amended and added to the regulations in Ordinances 4518 (Amending the Pretreatment Requirements), 4559 (Amending Pretreatment Requirements), 4625 (Pretreatment Requirements and Standards), 4852 (Amend Pretreatment Requirements and Standards; Revise Local Limits of Certain Pollutants), 4911 (Amend Local Limits for Mercury), 4922 (Public/Private Sewer Construction), 4941 (Amend Pretreatment Requirements and Standards and Regulate the Discharge of Mercury by Dental Practices); and

WHEREAS, Goshen Sewer Utility staff has identified certain appropriate amendments to the ordinances governing Goshen Sewer Utility services to keep the operation in compliance with US. Environmental Protection Agency requirements, including modification to Pretreatment local limits, and staff seeks to consolidate all current ordinances relating to the City's Sewer Operation into one ordinance.

NOW THEREFORE BE IT ORDAINED by the Common Council of the City of Goshen, Indiana, that:

Section 1. **PURPOSE AND OBJECTIVES**

- 1.01 This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works, or "POTW," for the City of Goshen and is intended to comply with all applicable state and federal laws including the Clean Water Act of 1972 (33 U.S.C. §§ 1251 et seq.) and the General Pretreatment Regulations for Existing and New Sources of Pollution (40 C.F.R. § 403).
- 1.02 The objectives of this ordinance are:
 - (A) To prevent the introduction of Pollutants into the POTW which will interfere with the operation of the POTW or contaminate the resulting Biosolids;
 - (B) To prevent the introduction of Pollutants into the POTW which will pass through the POTW, inadequately treated, into Receiving Waters or otherwise be incompatible with the POTW;
 - (C) To improve the opportunity to recycle and reclaim Wastewaters and Biosolids from the system;
 - (D) To provide for equitable distribution of the costs of the POTW;
 - (E) To enable the City of Goshen to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, Biosolids use and disposal requirements, and any other federal or state laws to which the POTW is subject; and
 - (F) To establish other regulations governing the connection to and services provided by the City of Goshen's Sewer Utility.
- 1.03 This ordinance provides for the regulation of direct and Indirect Discharges to the POTW through the issuance of Discharge Permits to certain non-domestic users and

through enforcement of general requirements for the other users; authorizes monitoring, compliance and enforcement activities; requires user reporting; establishes administrative review procedures; and provides for the equitable distribution of costs resulting from the program.

1.04 Public Sewer Main Construction.

(A) Any entity constructing, extending, repairing or modifying any public Sewer main must obtain a Sewer main construction permit before any work begins to construct, extend, repair or modify a public Sewer main.

(B) Before issuing the public Sewer main permit, the utility may require the applicant to file a set of detailed plans and specifications. A copy of a Construction Design Release issued by the State of Indiana, if any release is required by State statute, shall be provided to the utility before the utility issues a permit.

(C) It is the joint obligation of the property owner, general contractor and the sub-contractor who is constructing, extending, repairing or modifying the Sewer main to obtain all necessary permits and to pay the permit fee.

(D) Any public Sewer main permit issued shall expire eighteen (18) months from the date of issuance.

1.05 Private Sewer Line Construction

(A) The construction, extension, modification or repair of any private Sewer line (sometimes referred to as Sewer building line) requires a permit before any work to construct, extend, modify, or repair a private Sewer line begins.

(B) If upon an examination of the permit application, the City utility finds that the proposed work complies with all applicable statutes, regulations and ordinances, the applicant shall be authorized to proceed with the work upon payment of the permit fee.

(C) Before issuing the private Sewer line permit the utility may require the applicant to file detailed plans and specifications. A copy of a Construction Design Release issued by the State of Indiana, if any release is required by State statute, shall be provided to the utility before the utility issues a permit.

(D) It shall be the joint obligation of the property owner, general contractor and the sub-contractor constructing, extending, repairing or modifying the private Sewer main line to obtain all necessary permits.

(E) Any private Sewer line permit issued shall expire eighteen (18) months from the date of issuance.

Section 2. GENERAL REGULATIONS

2.01 This ordinance shall apply to all users of the POTW.

2.02 Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this ordinance.

2.03 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 ordinance.

Section 3. DISCHARGE PROHIBITIONS

3.01 Discharge Prohibitions. 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:

(A) Any Pollutant or Wastewater which, due to its high concentration and/or flow rate, could interfere with POTW operation or pass through the treatment plant.

(B) 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 a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit (sixty (60) degrees Centigrade) using the test methods specified in 40 C.F.R. § 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.

(C) Solid or viscous substances which may cause obstruction to the flow in a Sewer or other Interference with the operation of the wastewater treatment facilities such as, but not limited to grease, garbage with particles greater than one-half inch (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.

(D) Any Wastewater having a pH less than 5.5 or greater than 10.0 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.

(E) Any Wastewater containing Toxic Pollutants in sufficient quantity, either singly or by interaction with other Pollutants, to injure or interfere with any wastewater 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 Clean Water Act.

(F) 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.

- (G) 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.
- (H) Any substance which will cause the POTW to violate its NPDES and/or Land Application Permit or the receiving water quality standards.
- (I) Any Wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (J) 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's treatment plant exceed forty (40) degrees Celsius or one hundred four (104) degrees Fahrenheit unless the Indiana Department of Environmental Management, upon request of the POTW, approves alternate temperature limits.
- (K) Any Wastewater 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.
- (L) Any Wastewater which causes a hazard to human life or creates a public nuisance.
- (M) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts greater than as allowed in Section 3.04(B) of this ordinance that will cause Interference or Pass-Through.
- (N) 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.
- (O) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Non-Contact Cooling Water, and unpolluted industrial Wastewater, unless specifically authorized by the Superintendent.
- (P) Any sludges, screenings or other residues from the Pretreatment of Industrial Wastes.
- (Q) Any Medical Wastes, except as specifically authorized by the Superintendent in a Significant Industrial User Discharge Permit.
- (R) Any Wastewater causing the treatment plant's effluent to fail a toxicity test.
- (S) Any wastes containing detergents, surface active agents (surfactants) or other substances which may cause excessive foaming in the POTW.
- (T) Any trucked or hauled Pollutants or Wastewater.

(U) Any Wastewater from a mobile food service vehicle gray water tank, unless such Wastewater is deposited in a drain served by a properly functioning one thousand (1,000) gallon Grease Interceptor.

3.02 Wastes prohibited by Section 3.01 of this ordinance 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.

3.03 When the Superintendent determines that a user is contributing to the POTW any of the above substances set forth in Section 3.01 of this ordinance in such amounts as to interfere with the operation of the POTW, the Superintendent shall:

(A) Advise the user of the impact of the contribution on the POTW, and

(B) Develop effluent limitations for such user to correct the Interference with the POTW.

3.04 Supplementary Limitations.

(A) Local Limits. Unless otherwise limited or authorized by the Board of Public Works and Safety and incorporated into a Discharge Permit, no user shall discharge Wastewater containing concentrations of the following Pollutants, exceeding the following values (Daily Maximum):

(1)	Arsenic	0.07 mg/l
(2)	Cadmium	0.08 mg/l
(3)	Chromium (Total)	2.50 mg/l
(4)	Copper	1.80 mg/l
(5)	Cyanide	0.25 mg/l
(6)	Chlorides	20.00 mg/l
(7)	Lead	0.50 mg/l
(8)	Mercury	370 ng/l
(9)	Molybdenum	3.10 mg/l
(10)	Nickel	1.40 mg/l
(11)	Phenol	1.00 mg/l
(12)	Selenium	0.35 mg/l
(13)	Silver	0.20 mg/l
(14)	Zinc	2.50 mg/l
(15)	TTO	1.50 mg/l
(16)	PCBs	0.50 mg/l

(B) Surcharges. Unless otherwise limited or authorized by the Board of Public Works and Safety and incorporated into a Discharge Permit, users may discharge

Wastewater containing the following Pollutants but are subject to surcharges pursuant to Section 15.02 of this ordinance for concentrations exceeding the following values (daily, or monthly were noted, maximum):

(1)	BOD5 (five-day Biochemical Oxygen Demand)	200.00 mg/l
	(a) BOD5 Monthly ceiling limit	800.00 mg/l
	(b) BOD5 Daily Maximum ceiling limit	1,600.00 mg/l
(2)	TSS (total suspended non-filterable solids)	200.00 mg/l
(3)	Ammonia	30.00 mg/l
(4)	Phosphorus (P)	10.00 mg/l
(5)	Fats 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, impose mass-based limitations in addition to or in place of the concentration-based limitations above.

(D) The Superintendent may develop Best Management Practices (BMPs) in individual Wastewater Discharge Permits to implement the supplementary limitations and requirements of Section 3.04 of this ordinance.

3.05 Dilution. 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.

3.06 Grease Traps/Grease Interceptors.

(A) Categories of Commercial Food Preparers. Any commercial user who sells food to be consumed on site or prepares food for sale or consumption must apply for a food service permit. At the time of original application or at the time or renewal of any existing permit, the Superintendent or a designee may require the applicant to submit information pertaining to the type of food prepared, the size of the operation, the food preparation facilities on site, and the hours of operation. Based on this information and the facility’s records for water consumption at the location, an applicant shall be given points as set forth in the schedule attached as Exhibit A.

(B) Category Requirements.

(1) Category A. Any applicant for a food service permit who is designated as Category A must install a one thousand (1,000) gallon Grease Interceptor that captures flows from all floor drains, mop sinks, dishwashers and three (3) bay sinks. However, if a Category A applicant’s building occupies at least ninety-five percent (95%) of the real estate on which the building is located, the Board of Public Works and Safety may allow a mechanical Grease Trap of at least thirty-five (35) gpm flow rate. The food

service permit shall designate the minimum frequency that the Grease Interceptor or mechanical Grease Trap is serviced. The maintenance schedule shall be set to keep the Grease Interceptor or mechanical Grease Trap in good working order and to minimize the introduction of fats, oils and grease into the City's Sewer system. All mechanical Grease Traps must include an alarm system to alert the user when the trap requires cleaning.

(2) Category B. Any applicant for a food service permit who is designated as Category B must install a Grease Trap that captures flows from all kitchen floor drains, mop sinks, prep sinks and three (3) bay sinks. The food service permit shall designate the minimum frequency that the Grease Interceptor or Grease Trap is serviced. The maintenance schedule shall be set to keep the Grease Interceptor or Grease Trap in good working order and to minimize the introduction of fats, oils and grease into the City's Sewer system. All Grease Traps shall have a flow restrictor that is properly sized to meet the design flow rate of the trap.

(3) Category C. Any applicant for a food service permit who is designated as Category C shall install a manhole or port to facilitate inspections but no Grease Interceptor or Grease Trap will be required.

(C) Best Management Practices. Best Management Practices may be included as part of the conditions of the food service permit and may serve to reduce the frequency of cleaning and/or the required size of the Grease Trap or interceptor.

(D) Obtaining a food service 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.

(E) New Construction or Remodel. Any building constructed after December 31, 2010, for a commercial user who intends to use the building to sell food to be consumed on site or to prepare food for sale or consumption must design the building so a one thousand (1,000) gallon Grease Interceptor can be installed if and when the commercial user meets the Category A criteria. At the time of the original construction of such building, the building shall be plumbed in accordance with the standards set forth in Section 3.07(E) of this ordinance.

(F) Grandfather Provision. Any applicant who installed a Grease Interceptor which is less than one thousand (1,000) gallon capacity may continue to use the smaller interceptor as long as it continues to operate properly and does not violate any requirements of the food service permit or other applicable local regulations or allows solids and grease to exceed thirty-three percent (33%) of the capacity of the interceptor.

(G) Installation and Maintenance of Grease Interceptors/Grease Traps.

(1) 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 Section 11 of this ordinance.

(2) All interceptors shall be designed so that, when properly maintained, do not violate any requirements of the food service permit or other

applicable local regulations or allows solids and grease to exceed thirty-three percent (33%) of the capacity of the interceptor.

(3) All interceptors must be properly maintained in good working order at all times.

(4) All interceptors shall be of a type and capacity approved by the Superintendent and shall be located to be easily accessible for inspection and cleaning.

(5) All interceptors shall be installed in the Building Sewer in accordance with the latest edition of the Indiana Plumbing Code. Additionally, all interceptors shall include the following:

(a) A minimum of one (1) baffle;

(b) A sample well;

(c) Drop pipes at both influent and effluent; and

(d) An inspection and cleaning manhole - one (1) on each side of the baffle.

(6) Detailed plans and specifications for all Grease Interceptors shall be submitted to and approved by the Superintendent before installation.

(7) A septic tank shall not be substituted for a Grease Interceptor.

(8) The required sample well shall, at a minimum, include the following:

(a) An inspection manhole structure on the outflow pipe;

(b) The structure shall have a thirty inch (30") inside diameter if less than five feet (5') deep. Otherwise, a standard four-foot (4') manhole structure with steps shall be used;

(c) The inflow pipe to the structure shall be no less than one foot (1') higher than the elevation of the outflow pipe, but shall be no more than two feet (2') off the structure floor;

(d) The inspection structure shall be within five feet (5') of the interceptor; and

(e) The inspection structure shall be readily accessible for inspection and testing.

(9) When Section 3.06 of this ordinance permits the installation of a Grease Trap instead of a Grease Interceptor, the internal trap must be sized in accordance with the Indiana Plumbing Code. All Grease Traps shall have a flow restrictor that is properly sized to meet the design flow rate of the trap.

(H) Appeals. The Board of Public Works and Safety may upon application allow an existing food service facility to install an interceptor that is smaller than one thousand (1,000) gallons or a Grease Trap if the applicant can demonstrate one (1) or more of the following conditions:

(1) More frequent cleaning of a smaller interceptor or trap will still meet the requirements of the food service permit and all other applicable local regulations.

(2) Interceptor size requirement is impractical because of space limitations.

(I) Waiver of Food Service Requirements.

(1) The food preparation/service surcharge will be waived if an applicant is in compliance with their food service permit requirements and all other applicable local regulations. At any time if the food service is in noncompliance, the surcharge will be reinstated and the surcharge cannot be waived for a minimum period of six (6) months.

(2) The Board of Public Works and Safety may issue a waiver of selected Grease Interceptor installation requirements to remodeling projects only when, in the opinion of the Board, adequate space does not exist to install all required structures. Users must apply for the waiver and present their case for the issuance of a waiver to the Board of Public Works and Safety.

(J) Prohibition of Food Waste Disposal.

(1) Any commercial user who sells food to be consumed on site or prepares food for sale or consumption is prohibited from installing or using a food waste disposal.

(2) No construction or remodeling for any commercial food preparer shall include a food waste disposal.

(3) All commercial food preparers who are using a food waste disposal shall discontinue such use and remove the disposal no later than December 31, 2010.

(K) Inspection Fees.

(1) An inspection fee will be imposed to inspect the installation of any Pretreatment unit required by Section 3.06 of this ordinance. The amount of the fee shall be set forth in a separate ordinance.

(2) If a reinspection is required for the installation of any Pretreatment unit mandated by Section 3.06 of this ordinance, the Superintendent may impose a reinspection fee. The amount of the fee shall be set forth in a separate ordinance.

(3) If any user discharges Wastewater containing concentrations of pollution in excess of limits established by Section 3.06 of this ordinance, an inspection fee may be imposed by the Superintendent of any inspection or reinspection to establish that a reduction of the discharge concentrations to permitted levels has occurred or to establish continued compliance with the required concentration for a period of up to one (1) year from the time of the last violation. The amount of the fee shall be set forth in a separate ordinance.

- (L) Food Service Permit Duration.
 - (1) A Category A food service permit shall be valid for Five (5) years.
 - (2) A Category B food service permit shall be valid for Three (3) years.

3.07 Federal Categorical Pretreatment Standards.

(A) 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 ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this ordinance. The Superintendent shall notify all affected users of the applicable reporting requirements under 40 C.F.R. § 403.12.

(B) Special Agreements. 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 C.F.R. § 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 C.F.R. § 403.13.

Section 4. PRETREATMENT REQUIREMENTS

- 4.01 Users shall provide necessary Wastewater treatment as required to comply with this ordinance 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.
- 4.02 Any facilities or equipment required to pretreat Wastewater 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 Superintendent for review, and shall be approved by the Superintendent 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 ordinance and permit conditions. Any subsequent changes in the Pretreatment facilities or method of operation shall be reported to and approved by the Superintendent prior to the user's initiation of the changes.
- 4.03 Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain Wastewater be discharged only into specific Sewers, relocate and/or consolidate points of discharge, separate Sewage 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 ordinance.

- 4.04 Any user discharging into the POTW greater than twenty-five thousand (25,000) gallons per day of process Wastewater 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 the user's property and at the user's expense, a suitable storage and flow control facility to ensure 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 Discharge Permit may be issued to any user solely for flow equalization.
- 4.05 Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- 4.06 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 ordinance. There shall be ample space in or near such facilities to allow accurate sampling and preparation of samples for analysis.
- 4.07 Industrial Slug Control Plans.
- (A) All Significant Industrial Users and other users as required shall provide protection from accidental discharge of materials which may interfere with or pass through the POTW by developing slug control 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. Slug control 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 ordinance unless and until a slug control 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 Superintendent shall evaluate each Significant Industrial User at least once every permit cycle and other users as necessary, to determine whether such user requires a plan to control slug discharges. All new Significant Industrial Users shall be evaluated for the need for a slug control plan within the first year of operation. If the Superintendent 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 Superintendent of slug discharges, including any discharge that would violate a prohibition under

Section 3 of this ordinance, 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.

Section 5. DENTAL PRACTICES

- 5.01 For the purposes of this ordinance, any dental facility or other commercial facility performing or associated with dental work shall be referred to as a "Dental Practice."
- 5.02 A Dental Practice that handles mercury or products containing mercury, or otherwise removes or places amalgam fillings, shall properly install, operate, and maintain according to manufacturer's recommendations an appropriately sized amalgam separator that has an efficiency removal rate of at least ninety-nine percent (99%), certified to current, applicable standards, as well as chair-side traps to capture amalgam. Dental Practices shall provide to the Superintendent, upon request, a certification that the installation, operation, and maintenance of the amalgam separator is in accordance with the amalgam separator manufacturer's recommendations, ISO 11143, and/or Best Management Practices.
- 5.03 A Dental Practice that handles mercury or products containing mercury, or otherwise removes or places amalgam fillings, shall be subject to, and must comply with, monitoring, inspection, reporting, and other requirements found in Best Management Practices and City of Goshen Mercury Reduction Plan for Dental Practices as developed by the Superintendent.
- 5.04 A Dental Practice shall report to the Superintendent the model and size of its amalgam separator within ninety (90) days after installation of the separator.
- 5.05 Any new construction of a Dental Practice shall include a sampling manhole, with a sampling port to allow testing of the Dental Practice's waste discharges.
- 5.06 A Dental Practice shall maintain on-site records of the operation, maintenance, and recycling or disposal of amalgam waste for the previous three (3) years.
- 5.07 A Dental Practice that does not handle mercury or products containing mercury, or otherwise remove or place amalgam fillings, can petition the Goshen Board of Public Works and Safety for an exemption from the requirements of this section.
- 5.08 The following types of Dental Practice are exempt from this Section 5, provided that removal or placement of amalgam fillings occurs at the facility no more than 3 times per year: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery; (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry, and prosthodontistry.

Section 6. NOTICE OF DISCHARGE

- 6.01 In the case of any discharge in violation of this ordinance or permit conditions, and in the case of any potential discharge that could cause problems to the POTW, including any Slug Loadings, the user shall immediately notify by telephone the Goshen wastewater treatment plant of the discharge. The notification shall include:
- (A) The date, time location and duration of the discharge;
 - (B) The type of waste, including concentration and volume; and
 - (C) Any corrective actions taken by the user.
- 6.02 Employee Notification. 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.
- 6.03 Within five (5) days following such a discharge, the user shall submit to the Superintendent a written report describing the cause of the discharge and the measures that will be taken by the user to prevent similar future discharges.
- 6.04 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 ordinance or other applicable state or federal law. The City of Goshen shall reserve the right to reevaluate the need for a slug control plan or other corrective actions deemed necessary to prevent such discharges.
- 6.05 Failure to notify the Goshen wastewater treatment plant of potential problem discharges shall be deemed a separate violation of this ordinance.

Section 7. DISCHARGE PERMITS

- 7.01 Discharge Permit Required.
- (A) The following users must obtain the type of Discharge Permit described below prior to discharging any Wastewater into the POTW:
 - (1) Any Significant Industrial User must obtain a Significant Industrial User Discharge Permit.
 - (2) Groups of Significant Industrial Users that are substantially similar may be issued General Permits.
 - (B) Extra Jurisdictional Users. Section 7 of this ordinance applies to customers of the City's POTW even if such customers are located outside the corporate limits of the City of Goshen.
 - (C) 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.
- 7.02 Time Period to Obtain Discharge Permit.
- (A) Any existing user who is required by Section 7.01 of this ordinance to obtain a Discharge Permit who does not currently have a Discharge Permit, must apply to

the Goshen wastewater treatment plant for a Discharge Permit within ninety (90) days of the effective date of this ordinance.

(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. The procedure for renewal application is substantially the same as the procedure for the initial application.

(C) Any new user who is required by Section 7.01 of this ordinance to obtain a Discharge Permit must obtain a Discharge Permit prior to beginning the discharge which requires the permit.

7.03 Wastewater Survey. When requested by the Superintendent, users must submit information on the nature and characteristics of their Wastewater by completing a Wastewater 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 ordinance.

7.04 Industrial Discharge Permit Application Contents.

(A) Users required to obtain a Discharge Permit shall complete and file with the Goshen wastewater treatment plant, an application on a form prescribed by the Superintendent, 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 necessary by the Superintendent 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) Wastewater Constituents and Characteristics, as determined by an 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 C.F.R. §136, as amended;

(3) Time and duration of discharge;

(4) Average daily and thirty (30) minute peak Wastewater 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 subsection (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, 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 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) 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.”

(E) 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.

7.05 Industrial Discharge Permit Contents. 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 may contain, as appropriate, the following:

- (A) Statement of duration, including issuance and expiration dates;
- (B) Effluent limitations applicable to the user based on applicable standards in federal, state and local law;
- (C) Discharge prohibitions as established by Section 3 of this ordinance;
- (D) Requirements to pay fees for the Wastewater to be discharged to the POTW;
- (E) User-specific Best Management Practice requirements, as appropriate;
- (F) Limitations on the average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (G) Requirements for installation and maintenance of inspection and sampling facilities;
- (H) 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;
- (I) Compliance schedules (if applicable);
- (J) Development and implementation of slug control 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;

(K) Requirements for collecting/retaining and providing access to plant records, including the right of the Superintendent to copy records, and for providing entry for sampling and inspection;

(L) Requirements for notification of any new introduction of Wastewater constituents or any substantial change in the volume or character of the wastewater treatment system;

(M) Requirements for notification of spills, potential problems to the POTW, including Slug Loadings, Upsets or violations;

(N) 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;

(O) Requirements to develop and implement spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges;

(P) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this ordinance, state and federal Pretreatment Standards and requirements;

(Q) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements;

(R) Statement of non-transferability;

(S) 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

(T) Re-opener clause.

7.06 Discharge Permit Duration.

(A) A Significant Industrial User Discharge Permit shall be valid for a specified period of time not to exceed five (5) years.

(B) A General Permit shall be valid for a specified period of time not to exceed five (5) years.

7.07 Discharge Permit Modification.

(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 Wastewater 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 C.F.R. 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) Users may seek a waiver from the Superintendent from monitoring for a Pollutant neither present nor expected to be present in their effluent. Any user seeking such a waiver must present supporting documentation to the Superintendent, including, but not limited to, sampling results and other technical factors. Approval of said waiver is subject to conditions as further explained in 40 C.F.R. § 403.12(e)(2). Any waiver granted shall be included as a condition of the user's Discharge Permit.

(C) The filing of a request by the permittee for a Discharge Permit modification or waiver does not stay any Discharge Permit condition.

7.08 Discharge Permit Transfer.

(A) The owner and operator holding a Discharge Permit must notify the Superintendent of the sale or transfer of the Discharge Permit.

(B) 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.

(C) Failure to comply with any portion of this Section 7.08 of this ordinance renders the Discharge Permit voidable on the date of the facility transfer.

7.09 Discharge Permit Revocation (Industrial Permit and Food Service Permit).

(A) Discharge Permits may be revoked for the following reasons:

- (1) Failure to notify the Superintendent of significant changes to the Wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Superintendent of changed conditions pursuant to Section 8.05 or Section 4.02 of this ordinance;
- (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 Superintendent 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 Wastewater 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 ordinance;
- (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

7.10 Discharge Permit Appeals.

(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 Superintendent shall perform periodic 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.

Section 8. REPORTING AND MONITORING

8.01 Baseline Monitoring Reports.

(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 C.F.R. § 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 to the Superintendent which contains the information listed in Section 8.01(C) of this ordinance.

(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 to the Superintendent which contains the information listed in Section 8.01(C) of this ordinance at least ninety (90) days prior to commencement of discharge to the POTW. A New Source shall also be required to report to the Superintendent the method of Pretreatment it intends to use to meet Applicable Pretreatment Standards. A New Source shall also be required to provide to the Superintendent estimates of its anticipated flow and quantity of Pollutants discharged.

(C) The industrial user shall submit the information required by Section 8.01 of this ordinance 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 C.F.R. § 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 Section 8.08 of this ordinance.

(b) Sampling must be performed in accordance with procedures set out in Section 8.09 of this ordinance.

(c) The user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of Section 8.01 of this ordinance.

(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 Wastewaters are mixed with the regulated Wastewater prior to Pretreatment the user should measure the flows and concentrations necessary to allow the use of the combined waste stream formula of 40 C.F.R. § 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 C.F.R. § 403.6(e), this adjusted limit along with supporting data shall be submitted to the Superintendent.

(e) The Superintendent may allow the submission of a baseline report which utilizes only historical data as the data provides information sufficient to determine the need for industrial Pretreatment measures.

(f) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant discharges to the POTW.

(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) The following conditions shall apply to any schedule submitted in response to Section 8.01(C)(7) of this ordinance:

(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 subsection (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, 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.

(d) In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

(9) Where the industrial user's federal Categorical Pretreatment Standard has been modified by a removal allowance (40 C.F.R. § 403.7), the combined waste stream formula (40 C.F.R. § 403.6(e)), or net/gross calculations (40 C.F.R. § 403.15), at the time the industrial user submits a baseline report, the information required in Section 8.01(C) of this ordinance shall pertain to the modified limits.

(10) 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 Section 8.01(C) of this ordinance and submit them to the Superintendent within sixty (60) days after the modified limit is approved.

(11) Such other information as may be reasonably requested by the POTW Superintendent.

(12) All baseline monitoring reports must be signed and certified as outlined in Section 7.04(D) of this ordinance.

8.02 Report on Compliance with Federal Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of Wastewater into the POTW, any user subject to Categorical Pretreatment Standards shall submit to the Superintendent 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 Superintendent 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 Section 7.04(D) of this ordinance.

8.03 Periodic Compliance Reports.

(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 Superintendent 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 Superintendent may agree to alter the months during which the above reports are to be submitted. In cases where the Pretreatment Standard requires compliance with a Best Management Practice or pollution prevention alternative, the user must submit documentation required by the Superintendent or the Pretreatment Standard necessary to determine the compliance status of the user.

(B) The Superintendent 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 is appropriate. In such cases, the report required by Section 8.03(A) of this ordinance 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 Superintendent, 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 Superintendent in accordance with the procedures in 40 C.F.R. § 403.6(c), the report required by Section 8.03(A) of this ordinance shall contain a reasonable measure of the user's long-term production rate.

(D) 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 Section 8.03(A) of this ordinance shall include the user's actual average production rate for the reporting period.

(E) Significant non-categorical industrial users shall submit to the Superintendent at least once every six (6) months (on dates specified by the Superintendent 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 Superintendent.

(F) The reports required by Section 8.03 of this ordinance shall include the certification statement as outlined in Section 7.04(D) of this ordinance and shall be signed by an authorized representative.

8.04 Monitoring and Analysis in Support of Self-Monitoring Requirements.

(A) The reports required by Section 8.03 of this ordinance 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 C.F.R. § 136 and amendments thereto. Where 40 C.F.R. § 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 Superintendent or other persons, approved by the EPA. This sampling and analysis may be performed by the Superintendent in lieu of the user. Where the Superintendent 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 Superintendent within twenty-four (24) hours of becoming aware of the violation. If a Slug Load occurs, it shall also be reported to the Superintendent within twenty-four (24) hours. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation, except the user is not required to re-sample if:

(1) The Superintendent performs sampling at the user at a frequency of at least once per month, or

(2) The Superintendent 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 Section 8.03 of this ordinance 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 ensure compliance by users with Applicable Pretreatment Standards and requirements.

(D) If a user subject to the reporting requirement in and of Section 8.03 of this ordinance monitors any Pollutant more frequently than required by the Superintendent, using the procedures prescribed in Section 8.04 of this ordinance, the results of this monitoring shall be included in the report.

(E) All Wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean and maintained in good working order at all times. The failure of a user

to keep its monitoring 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 Section 8.03 of this ordinance shall include the certification statement as outlined in Section 7.04(D) of this ordinance and shall be signed by an authorized representative.

(G) All samples and sample reports submitted by any user shall follow specific chain-of-custody procedures and shall record chain-of-custody on a form provided by the City of Goshen. Chain of custody shall include, at a minimum, the following:

- (1) Name and address of user;
- (2) Location of sampling site;
- (3) Date and time of sample collection;
- (4) Parameters to be analyzed;
- (5) Sample preservation used; and
- (6) Name of person collecting sample.

8.05 Report of Changed Conditions.

(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 Wastewater 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.

8.06 Reporting Requirements for Nonsignificant Industrial Users. 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.

8.07 Hazardous Waste Notification.

(A) Any user which discharges to the POTW any substance which, if otherwise disposed of, would be listed as a hazardous waste under 40 C.F.R. § 261, shall notify the POTW Superintendent, 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 C.F.R. § 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 Section 8.07(B) of this ordinance, users discharging more than one hundred (100) 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 Section 8.05 of this ordinance.

(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 C.F.R. §§ 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 Superintendent, 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 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.

(H) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable Federal or State law.

8.08 Analytical Requirements. 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 C.F.R. § 136, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 C.F.R. § 136 does not contain sampling or analytical techniques for the Pollutant in question, or where

the EPA determines that the 40 C.F.R. § 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

- 8.09 Sample Collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (A) Except as indicated in Section 8.09(B) of this ordinance, the user must collect Wastewater 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. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite Samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Superintendent, as appropriate. In addition, Grab Samples may be required to show compliance with instantaneous discharge limits. Specific sampling requirements shall be described in Discharge Permits.
- (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.
- 8.10 Date of Report. 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.
- 8.11 Record keeping. Users shall retain, and make available for inspection and copying, all records and information required to be retained under this ordinance, as required by a Discharge Permit, and documentation associated with Best Management Practices established under Section 3.04(D) of this ordinance. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this ordinance, or where the user has been specifically notified of a longer retention period by the Superintendent.

8.12 Report Certification. All reports required under this ordinance shall require official certification by the authorized representative as per Section 7.04(D) of this ordinance.

Section 9. COMPLIANCE MONITORING

9.01 Right of Entry; Inspection and Sampling.

(A) The Superintendent, State or EPA, upon showing proper identification, shall have the right to enter and inspect the facilities of any user who may be subject to the requirements of this ordinance to ascertain whether the purpose of this ordinance, and any permit or order issued, is being met and whether the user is complying with all requirements. Users shall allow the Superintendent, State or EPA 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 personnel from 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 Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure Wastewater flow and quality shall be calibrated 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 borne by the user.

(F) 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 the Superintendent, State or EPA to enter and inspect the premises as guaranteed by Section 9.01 of this ordinance.

(G) Unreasonable delays in allowing the Superintendent access to the user's premises shall be considered a violation of this ordinance.

Section 10. TENANT RESPONSIBILITY

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 ordinance.

Section 11. ENFORCEMENT

11.01 Minor Infraction.

(A) When the Superintendent finds that any user has experienced a minor infraction of this ordinance 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.

11.02 Notice of Violation. Whenever the Superintendent finds that any user has violated or is violating this ordinance, 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 ordinance for any violations cited by the notice. The notice shall be served upon the user in accordance with Section 11.16 of this ordinance.

The notice is effective on the date considered given in accordance with Section 11.17 of this ordinance. Nothing in Section 11.02 of this ordinance 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.

11.03 Increased Sampling Frequency. The City may amend any Discharge Permit to increase the monitoring frequency and/or penalty amount in the event of repeated violations of numerical limits. Said increase shall be in place until the facility demonstrates six (6) consecutive months of compliance. Once six (6) consecutive months of compliance are demonstrated, the permit shall be reopened and amended to return to the original sampling frequency.

11.04 Show Cause Order and Hearing.

(A) The Superintendent may serve upon any user who causes, allows or contributes to a violation of this ordinance, 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 Section 11.16 of this ordinance. 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 subsection (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 ordinance 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 Section 11.16 of this ordinance and the show cause order is effective on the date considered given in accordance with Section 11.17 of this ordinance. At any hearing held pursuant to this ordinance, 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 ordinance, 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.

(E) 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 Section 11.16 of this ordinance and the notice is effective on the date considered given in accordance with Section 11.17 of this ordinance.

(F) Compliance with the conditions, requirements and terms of any of the orders issued by the Board of Public Works and Safety pursuant to Section 11.04(D) of this ordinance will not be construed to relieve the user of its obligation to comply with its Wastewater 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 ordinance 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 ordinance and may subject the user to such other enforcement response that may be appropriate.

(G) Any action taken by the Board of Public Works and Safety under this ordinance 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 Section 11.04 of this ordinance 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 Section 11.04 of this ordinance is an action de novo. The court may affirm, modify or reverse the action taken by the Board of Public Works and Safety.

11.05 Consent Order. 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 Section 11.04 of this ordinance.

11.06 Compliance Order. When the Superintendent finds that a user has violated or continues to violate the ordinance, 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 reasonably 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.

11.07 Cease and Desist Order.

(A) When the Superintendent finds that a user is violating this ordinance, 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 a Discharge Permit. Issuance of a cease-and-desist order shall not be a prerequisite to taking any other action against the user.

11.08 Revocation Order. When the Superintendent finds that a user is violating this ordinance, 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 Section 7.09 of this ordinance and shall not be a prerequisite to taking any other action against the user.

11.09 Emergency Suspension of Service.

(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 Wastewater 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 Section 11.10 of this ordinance 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 ordinance 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 ordinance 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 Section 11.09 of this ordinance shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

11.10 Termination of Discharge.

(A) In addition to those provisions in Section 7.09 of this ordinance, any user that violates the following conditions of this ordinance, Discharge Permits or orders issued hereunder, is subject to discharge termination:

- (1) Violation of Discharge Permit conditions;
- (2) Failure to accurately report the Wastewater Constituents and Characteristics of its discharge;
- (3) Failure to report significant changes in operations or Wastewater 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 section 4 of this ordinance;
- (6) Falsifying self-monitoring reports or any other required records;
- (7) Tampering with monitoring equipment.

(B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 11.04 of this ordinance why the proposed action should not be taken.

11.11 Injunctive Relief. Whenever a user has violated a Pretreatment Standard or requirement or continues to violate the provisions of this ordinance, 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 Section 11.04(D) of this ordinance, 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 ordinance 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.

11.12 Civil Penalties.

(A) Any user which has violated or continues to violate this ordinance, 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 Section 13 of this ordinance.

(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.

11.13 Remedies Nonexclusive. The provisions set forth in Section 11 of this ordinance 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.

11.14 User's Right of Interpretation. 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 ordinance 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 the ordinance or deals with a Discharge Permit, receipt of the discharger's request will not delay any enforcement proceedings.

11.15 Annual Publication of Violators. 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 Section 16.46 of this ordinance, or were subject to the enforcement proceedings pursuant to the provisions of Section 11 of this ordinance, 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.

11.16 Service.

(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 principal executive, general partner, corporate officer, or the individual in charge of the user's Wastewater 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 Section 11.16(A) of this ordinance, 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.

11.17 Effective Date of Notice, Order or Statement. The date when the notice, order or statement is considered given is as follows:

(A) 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.

(B) 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.

(C) Notice by publication is considered given on the date of the second day that publication was made.

11.18 Supplemental Enforcement Remedies. In addition to those enforcement actions, remedies or proceedings addressed in Section 11 of this ordinance, the City of Goshen may, at its option, utilize any or all of the following enforcement remedies:

(A) Performance Bonds. The Superintendent may decline to reissue a Discharge Permit to any user which has failed to comply with the provisions of this ordinance 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.

(B) Liability Insurance. The Superintendent may decline to reissue a Discharge Permit to any user which has failed to comply with the provisions of this ordinance 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.

(C) Water Supply Severance. Whenever a user has violated or continues to violate the provisions of this ordinance 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.

(D) Public Nuisances. Any violation of the prohibitions on effluent of this ordinance 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.

(E) 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.

(F) Search Warrant. 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 ordinance 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 ordinance 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.

Section 12. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.01 General/Specific Prohibitions. A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions of this ordinance if it can prove that it did not know or have reason to know that its discharge, alone or in conjunction with other discharges, would cause Pass-Through or Interference and that either:

(A) 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

(B) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City 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.

12.02 Bypass.

(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 Sections 12.02(B) and 12.02(C) of this ordinance.

(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 Section 12.02(B) of this ordinance.

(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 Section 12.02(C)(1) of this ordinance.

12.03 Upset Provisions.

(A) An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of Section 12.03(B) of this ordinance 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.

Section 13. RECOVERY OF COSTS AND FINES

- 13.01 Recovery of Costs. Any person violating any ordinance provisions or who discharges or causes a discharge that produces a deposit or obstruction, or causes damage to the City of Goshen's Wastewater 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 ordinance.
- 13.02 Recovery of Fines. Any person violating any provision of this ordinance 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 ordinance.

Section 14. CONFIDENTIAL INFORMATION

- 14.01 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.
- 14.02 When the person furnishing a report satisfies the POTW that such person has made the demonstration required by Section 14.01 of this ordinance, 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 ordinance, 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. Wastewater characteristics and constituents and other effluent data as defined by 40 C.F.R. § 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Section 15. SURCHARGES

- 15.01 The City shall make and enforce such regulation as deemed necessary for the safe, economic and efficient management of the City's POTW. The City shall reserve the right to increase or decrease the frequencies of sampling and testing of any Wastewater discharger if it deems necessary in order to make the Pretreatment

program more cost effective for the City in regards to installation of Pretreatment equipment.

15.02 Surcharges.

(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 ordinance, 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 (NH₃-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 Wastewater 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 Wastewater shall be based on the following formula:

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

(2) For the purposes of the foregoing formula, the following 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 Wastewater 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 Wastewater 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 Wastewater 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 NH3-N, dollars per pound as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges"

(l) NH3-N = the concentration of NH3-N in the Wastewater from a specific user in mg/l

(m) na = maximum concentration of NH3-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 Wastewater 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

15.03 Pretreatment Charges. A Pretreatment charge shall be collected from users of the City's wastewater disposal system, which charges shall be as follows:

(A) 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.

(B) In-house laboratory analysis fees will be as set forth in the ordinance entitled "Goshen Sewer Utility Schedule of Rates and Charges."

(C) 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.

15.04 Miscellaneous Charges.

(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 Wastewater discharged to the wastewater 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 Wastewater discharged to the wastewater 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 and as outlined in a food service establishment (FSE) permit.

(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.:

Section 16. DEFINITIONS AND ABBREVIATIONS

The following terms, phrases, and abbreviations shall apply in the interpretation and enforcement of this ordinance:

- 16.01 Act. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- 16.02 Applicable Pretreatment Standard. Any Pretreatment limit or prohibitive standard (federal, state and/or local) contained in the ordinance and considered to be the most restrictive with which users will be required to comply.
- 16.03 Authorized Representative of the User. An authorized representative of a 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) The managing member, or an individual designated as an authorized representative by the member(s) if the User is a limited liability company;
- (C) A general partner or proprietor if the industrial user is a partnership or proprietorship respectively;

(D) 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.

- 16.04 Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 C.F.R. § 403.5(a)(1) and (b), and of this ordinance, except the BMPs required for Dental Practices shall include those practices set forth in City of Goshen Mercury Reduction Plan for Dental Practices. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established Categorical Pretreatment Standards and effluent limits.
- 16.05 Biochemical Oxygen Demand or “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]).
- 16.06 Biosolids. Any solid, semi-solid or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under 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).
- 16.07 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.
- 16.08 Building Sewer. A Sewer conveying Wastewater from the premises of a user to the property line.
- 16.09 Bypass. The intentional diversion of waste streams from any portion of an industrial user’s treatment facility.
- 16.10 Categorical Pretreatment Standard or Categorical Standard. Any regulation containing Pollutant discharge limitations promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 C.F.R. § Chapter I, Subchapter N, Parts 405-471.
- 16.11 City. City of Goshen, Indiana.
- 16.12 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 Wastewater loading is highly variable.

- 16.13 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.
- 16.14 Daily Maximum. The arithmetic average of all effluent samples for a Pollutant collected during a calendar day.
- 16.15 Direct Discharge. The discharge of treated or untreated Wastewater directly to the waters of the State of Indiana.
- 16.16 Discharge Permit. A permit issued by the Superintendent which authorizes:
- (A) Any Significant Industrial User; or
 - (B) Any commercial user who sells food to be consumed on-site or prepares food for sale or for consumption to deposit or discharge Wastewater into any Sanitary Sewer.
- 16.17 EPA. United States Environmental Protection Agency.
- 16.18 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.
- 16.19 General Permit. A type of Discharge Permit issued at the discretion of the Superintendent and used to control Significant Industrial User discharges to the POTW provided all the following conditions are met. All facilities, to be covered by a General Permit, must:
- (A) Involve the same or substantially similar types of operations;
 - (B) Discharge the same types of wastes;
 - (C) Require the same effluent limitations;
 - (D) Require the same or similar monitoring; and
 - (E) In the opinion of the Superintendent, are more appropriately controlled under a General Permit than under individual Wastewater Discharge Permits.
- 16.20 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.
- 16.21 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 wastewater collection system by gravity.
- 16.22 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 wastewater collection system by gravity.
- 16.23 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 U.S.C. §

1317), into the POTW, including holding tank waste discharged into the system and infiltration.

16.24 Industrial Wastes. The liquid wastes in liquid-borne waste resulting from any commercial, manufacturing or industrial operation or process as distinguished from Sanitary Sewage.

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

16.26 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 or operations, or its biosolid 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 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.

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

16.28 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:

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

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

(3) The production or Wastewater generating processes of the building, structure, facility or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is

engaged in the same general type of activity as the Existing Source, should be considered.

(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 Sections 16.28(A)(2) or 16.28(A)(3) of this ordinance but otherwise alters, replaces or adds to existing process or production equipment.

(C) Construction of a New Source as defined under this section has commenced if the owner or operator has:

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

(a) Any placement, assembly or installation of facilities or equipment; or

(b) Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of New Source facilities or equipment; or

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

- 16.29 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.
- 16.30 Non-significant Industrial User. An industrial user that discharges no more than one hundred (100) gallons per day of total categorical Wastewater and all other conditions are met in accordance with 40 C.F.R. § 403.3(v)(2).
- 16.31 NPDES. National Pollutant Discharge Elimination System.
- 16.32 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).
- 16.33 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.
- 16.34 pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

- 16.35 Pollutant. Any dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, Sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal and agricultural waste discharged into water.
- 16.36 Pretreatment or Treatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater 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 C.F.R. § 403.6(d).
- 16.37 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 C.F.R. § 403.5, § 307(b) and (c) of the Act, and Categorical Pretreatment Standards.
- 16.38 Publicly Owned Treatment Works or "POTW." A treatment works as defined by Section 212 of the Act, (33 U.S.C. § 1292) which is owned, in this instance, by the City of Goshen. This definition includes the treatment plant plus any Sewers that convey Wastewater 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 ordinance, POTW shall also include any Sewers that convey Wastewaters 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 Goshen POTW.
- 16.39 RCRA. Resource Conservation and Recovery Act.
- 16.40 Receiving Waters. The watercourse, stream, or body of water receiving the waters finally discharged from the Wastewater treatment plant.
- 16.41 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 ordinance as Industrial Waste.
- 16.42 Sanitary Sewer. A Sewer which carries Sewage, and to which storm, surface and ground waters are not intentionally admitted.
- 16.43 Sewage. Wastewater.
- 16.44 Sewer. A pipe or conduit for carrying Sewage.
- 16.45 Significant Industrial User. Any industrial user of the City's Wastewater disposal system who:
- (A) Has a process discharge flow of twenty-five thousand (25,000) gallons or more per average work day; or
 - (B) Has a total discharge flow greater than five percent (5%) of the flow in the City's wastewater treatment system; or

(C) Has in the user's waste Toxic Pollutants as defined pursuant to Section 307 of the Act or State of Indiana statues and rules; or

(D) 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 wastewater treatment system, the quality of Biosolids, the system's effluent quality, or air emissions generated by the system.

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 receive from an industrial user or POTW, and in accordance with 40 C.F.R. § 403.8(f)(6), determine that such industrial user is not a Significant Industrial User.

16.46 Significant Noncompliance.

(A) Chronic violations of Wastewater 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) a numeric Pretreatment Standard or requirement, including Instantaneous Limits, as defined by 40 C.F.R. § 403.3(I).

(B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same Pollutant parameter during a six (6) month period equal or exceed the product of the numeric Pretreatment Standard or requirement, including Instantaneous Limits, as defined by 40 C.F.R. § 403.3(I) multiplied by the applicable TRC (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 Standard or requirement as defined by 40 C.F.R. § 403.3(I) (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) 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 human health or welfare 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 forty-five (45) 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 may include a violation of Best Management Practices, which the City of Goshen determines will adversely affect the operation or implementation of the local Pretreatment program.
- 16.47 Slug Load. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.
- 16.48 Standard Industrial Classification or "SIC." A classification pursuant to the "Standard Industrial Classification Manual" issued by the Executive Office of the President, Office of Management and Budget, (1972).
- 16.49 Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- 16.50 Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater or other liquids, and which is removable by laboratory filtering.
- 16.51 Superintendent. The City of Goshen Utilities Wastewater Superintendent or his or her duly authorized representative.
- 16.52 SWDA. Solid Waste Disposal Act, 42 U.S.C. §§ 6901, et seq.
- 16.53 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.
- 16.54 TSS. Total Suspended Solids.
- 16.55 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.
- 16.56 User Class. The division of Wastewater 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) Governmental User. Any federal, state or local governmental user of the wastewater treatment works.

(E) Industrial User. Any establishment involved in manufacturing, processing or related activity that discharges Industrial Waste to the POTW, or 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 ordinance.

16.57 Wastewater. Liquid and water-carried Industrial Wastes and Sewage from residential dwellings, commercial buildings and operations, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

16.58 Wastewater 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 Wastewater.

16.59 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.

Section 17. SEVERABILITY

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

Section 18. CONFLICT

All ordinances and parts of ordinances inconsistent or in conflict with the terms of this ordinance are repealed to the extent of the inconsistency or conflict.

Section 19. SAVINGS CLAUSE

This ordinance shall not be construed as eliminating or reducing any action now pending under, or by virtue of, an existing law, previous ordinance, or related ordinance, including Ordinance 4333, as amended, which ordinance shall remain in full force and effect except to the extent they conflict with this ordinance. This ordinance shall not be construed as discontinuing, reducing, modifying or altering any penalty accruing or about to accrue.

Section 20. EFFECTIVE DATE

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

ADOPTED, PASSED, AND ORDAINED by the Goshen Common Council this _____ day of _____, 2024.

Gina M. Leichty, Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024, at the hour of ____:____
____.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor

EXHIBIT A

Categories of Commercial Food Preparers

Food service operating hours per week:

- One hundred (100) hours or more..... five (5) points
- Between fifty (50) and ninety-nine (99)..... four (4) points
- Between twenty-five (25) and forty-nine (49) hours.....three (3) points
- Between fifteen (15) and twenty-four (24) hours two (2) points
- Less than fifteen (15) hours one (1) point

Monthly flow attributable to food service by cubic feet:

- 8,021 cubic feet or more five (5) points
- Between 6,684 and 8,020 cubic feet four (4) points
- Between 5,348 and 6,683 cubic feetthree (3) points
- Between 4,011 and 5,347 cubic feet two (2) points
- Less than 4,011 cubic feet one (1) point

Seating capacity or maximum number of meals normally served at one time if less than seating capacity (not assessed for church facilities):

- One hundred fifty (150) seats/meals or more five (5) points
- Between seventy-five (75) and one hundred forty-nine (149) seats/meals..... four (4) points
- Between fifty (50) and seventy-four (74) seats/mealsthree (3) points
- Between twenty-five (25) and forty-nine (49) seats/meals..... two (2) points
- Less than twenty-five (25) seats/meals..... one (1) point

Serving practices:

- Full kitchen and serves food on dishes that are washed on site five (5) points
- Full kitchen and serves food on disposable dishes or dishes that are not washed on site four (4) points
- Prepares prepackaged food and serves food on dishes that are washed on site..... three (3) points
- Prepares prepackaged food and serves food on disposable dishes..... two (2) points
- Limited use kitchen - bakery or carry-in food prep and clean-up..... one (1) point
- Deep fryer used as part of normal food preparation five (5) points
- Deep fryer present but not part of normal food preparation..... two (2) points
- Facility has commercial dishwasher..... four (4) points
- Facility has three (3) bay sink and/or prep sink..... five (5) points

Facility has mop sink..... three (3) points
Facility has floor drains..... three (3) points
Facility has drive-thru one (1) point
Facility operates mobile food service three (3) points per vehicle

An applicant shall be assigned a category by the Superintendent based on the following point total:

Twenty-four (24) or more points Category A
Six (6) to twenty-three (23) points Category B
Less than six (6) points Category C

ORDINANCE NO. 5185

An Ordinance of the Common Council of the City of Goshen to Establish a Process to Address Chronic Disorderly Properties

WHEREAS, the Common Council of the City of Goshen has a substantial and compelling interest in protecting the health, safety, property, and welfare of its citizens and the neighborhoods affected by chronic unlawful or nuisance activity and requires all housing within the City meet a minimum standard of habitability as defined in City ordinances and code;

WHEREAS, Chronic unlawful or nuisance activity of various kinds within the City adversely affects the health, safety, and welfare of citizens and diminishes the quality of life in neighborhoods where this chronic activity occurs. Chronic unlawful or nuisance activity constitutes a public nuisance and is subject to abatement;

WHEREAS, existing City ordinances and enforcement processes do not adequately control chronic unlawful or nuisance activity, or its detrimental effects on citizens and neighborhoods where such activity occurs;

WHEREAS, time and resources of the Police Department and other City officials responsible for code enforcement are disproportionately allocated towards chronic unlawful and/or nuisance activity;

WHEREAS, establishing a regulatory framework contained herein will help alleviate the problems created by chronic unlawful or nuisance activity through early intervention by the Police Department and/or other City officials responsible for code enforcement;

WHEREAS, nothing in this ordinance shall limit any other civil and/or criminal action against the Property owner and/or Occupant;

WHEREAS, the City is aware of the potential punitive impact this Ordinance could have on victims of criminal activities and individuals suffering from physical and mental impairments.

NOW, THEREFORE, BE IT ORDAINED by the City of Goshen Common Council that:

1. Title.

1.1. Ordinance No. 5185 shall be known as the “Disorderly Property Ordinance.”

2. Definitions.

2.1. “Disorderly Property” shall mean a building, dwelling, establishment, premises, or place (collectively “Property”) where Prohibited Conduct occurs. It includes the outside area contiguous to and surrounding the Property such as a yard, parking lot or lot under the same ownership. If the Property has multiple dwelling units or residences, or is a hotel or motel, this definition applies to all dwelling units, rooms or suites of rooms in which

Prohibited Conduct occurs. If the Property is part of a larger apartment complex, this definition applies collectively to all buildings connected to the apartment complex in which Prohibited Conduct occurs. This definition specifically includes both owner and nonowner occupied Properties.

- 2.2. "Occupant" shall mean any person(s) residing at or having actual possession of any Property.
- 2.3. "Ordinance Citation" shall mean any citation issued by a City of Goshen Code Enforcement Officer or other official charged with enforcement of city ordinances.
- 2.4. "Owner" shall mean the Owner of record of the Property, as identified by the records of the Elkhart County Auditor's Office.
- 2.5. "Prohibited Conduct" shall mean activities occurring in violation of the statutes or ordinances relating to any of the following:
 - 2.5.1. Gambling, as defined in I.C. § 35-45-5-1;
 - 2.5.2. Battery, as defined in I.C. § 35-42-2-1;
 - 2.5.3. Contributing to the delinquency of a minor, as defined in I.C. § 35-46-1-8;
 - 2.5.4. Resisting law enforcement, as defined in I.C. § 35-44.1-3-1;
 - 2.5.5. Disorderly conduct, as defined in I.C. § 35-45-1-3;
 - 2.5.6. Criminal recklessness, as defined in I.C. § 35-42-2-2;
 - 2.5.7. Harassment as defined in I.C. § 35-42-2-2;
 - 2.5.8. Violations of any of the following Indiana statutes governing:
 - 2.5.8.1. Prostitution in violation of I.C. § 35-45-4-2;
 - 2.5.8.2. Making an unlawful proposition in violation of I.C. § 35-43-4-3; or
 - 2.5.8.3. Promoting prostitution or juvenile prostitution in violation of I.C. § 35-45-4-4;
 - 2.5.9. Violations of any of the following Indiana statutes governing:
 - 2.5.9.1. Criminal gang activity in violation of I.C. § 35-45-9-3;
 - 2.5.9.2. Criminal gang intimidation in violation of I.C. § 35-45-9-4; or
 - 2.5.9.3. Criminal gang recruitment in violation of I.C. § 35-45-9-5;
 - 2.5.10. Violations of the following Indiana statutes governing:
 - 2.5.10.1. Dealing in cocaine or a narcotic drug in violation of I.C. § 35-48-4-1;
 - 2.5.10.2. Dealing in methamphetamine in violation of I.C. § 35-48-4-1.1 and/or manufacturing methamphetamine in violation of I.C. § 35-48-4-1.2;
 - 2.5.10.3. Dealing in a schedule I, II, or III controlled substance or controlled substance analog in violation of I.C. § 35-48-4-2;
 - 2.5.10.4. Dealing in a schedule IV controlled substance or controlled substance analog in violation of I.C. § 35-48-4-3;
 - 2.5.10.5. Dealing in a schedule V controlled substance or controlled substance analog in violation of I.C. § 35-48-4-4'
 - 2.5.10.6. Dealing in marijuana, hash oil, hashish, salvia, a synthetic drug, as defined by I.C. § 35-31.5-2-321 or I.C. § 25-26-13-4.1, as those statutes are from time to time amended, or a controlled substance analog, as defined in I.C. § 35-48-

1-9.3 and/or I.C. § 35-48-4-10. The distribution of law THC hemp extract in full compliance with I.C. § 24-4-21-1 *et seq.* is excluded from this subpart.

- 2.5.10.7. Use of possession of any of the substances described in subsections 2.3.10.1 through and including 2.3.10.6 above, or the sale, use, or possession of any other illicit narcotics or dangerous controlled substances; or
 - 2.5.10.8. Dealing in a controlled substance by a practitioner in violation of I.C. § 35-48-4-1.5.
 - 2.5.11. Failure to keep vacant property secured against entry, in violation of I.C. § 36-7-9-1 *et seq.* and Goshen City Code § 6.3.1.1(ff);
 - 2.5.12. Accumulation of Materials Creating a Fire, Health, or Safety Hazard, as prohibited by Goshen City Code § 6.10.1.1 *et seq.*;
 - 2.5.13. Graffiti, as prohibited by Goshen City Code § 6.11.1.1 *et seq.*;
 - 2.5.14. Excessive Noise and Sound, as prohibited by Goshen City Code § 3.3.1.1 *et seq.*;
 - 2.5.15. Discharge of firearms, as prohibited by Goshen City Code § 3.5.1.1;
 - 2.5.16. Use, discharge, or ignition of fireworks, as prohibited by Goshen City Code § 3.6.1.1
- 2.6. “Verified Complaint” shall mean an incident of Prohibited Conduct occurring at a specific property address as documented by sworn law enforcement personnel, or an incident of Prohibited Conduct giving rise to the issuance of a citation. The term does not include incidents resulting from calls by or on behalf of an individual who is the victim or potential victim of a crime or abuse or any emergency call for an ambulance or medical service response.

3. Public Nuisance.

- 3.1. For Property with less than four (4) separate residential units, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on five (5) or more separate occasions during a thirty (30) day period, the City deems the Property to be a Disorderly Property and a public nuisance.
- 3.2. For a Property between four (4) and twenty (20) separate residential units, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on seven (7) or more separate occasions during a thirty (30) day period, the City deems the Property to be a Disorderly Property and a public nuisance.
- 3.3. For Property with twenty (20) or more separate residential units, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on nine (9) or more separate occasions during a thirty (30) day period, the City deems the Property to be a Disorderly Property and a public nuisance.
- 3.4. For Property used for commercial or industrial purposes, whether or not such property is zoned commercial or industrial pursuant to the Goshen City Zoning Ordinance, whenever Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurs in or upon the Property on nine (9) or more separate occasions during a

thirty (30) day period, the City deems the Property to be a Disorderly Property and a public nuisance.

4. Preventative Meeting.

- 4.1. Whenever a Property has at least two (2) instances of Prohibited Conduct, as documented by Verified Complaint or Ordinance Citation, occurring in any thirty (30) day period, the City, through its Police Department, Code Enforcement Department, or other relevant City department, shall endeavor to notify the Property Owner that the Property is in danger of becoming a Disorderly Property and deemed a Public Nuisance. The Notice shall reference the instances of Prohibited Conduct and the underlying Verified Complaint or Ordinance Citation, and request the Property Owner to meet with the appropriate and relevant City departments.
- 4.2. The purpose of the meeting is to discuss and identify reasonable remedial measures that may be undertaken by the Property Owner to mitigate and prevent future Prohibited Conduct.
- 4.3. If a Property Owner refuses to attend such meeting, the Police Department, Code Enforcement Department, or other relevant City Department shall document the efforts made to schedule said meeting and the Property Owner's and/or tenant's refusal.
- 4.4. Issuance of the Notice and the holding of the meeting as contemplated herein shall not be a condition precedent to establishing a Disorderly Property and designating said Property as a Public Nuisance as certain conditions or violations may require the City to seek immediate injunctive relief.
- 4.5. Any notice provided to the Property Owner shall be in the manner provided by I.C. § 36-7-9-25. For purposes of this Ordinance, the City deems the Owner responsible for any and all Prohibited Conduct.

5. Penalty, Injunctive Relief.

- 5.1. Whenever Prohibited Conduct constituting a public nuisance occurs at a property as specified in Section 3, the Police Department, Code Enforcement Officers, or other relevant City Department(s) shall file a report with the Legal Department describing and itemizing the instances of Prohibited Conduct, along with all supporting documentation. The report shall be reviewed by the City Attorney. If the City Attorney, after review, determines that sufficient and proper cause exists to deem the property a Disorderly Property and a public nuisance, and that enforcement will not be unduly punitive on victims of criminal activities or individuals suffering from physical and mental impairments, the City may file an action in any court of general jurisdiction against the Owner and/or occupants to enjoin the nuisance and to recover a fine. In the case of a rental property, apartment or multi-unit rental dwelling, enjoinderment of the nuisance may include the suspension of all future rental activities, including revocation of a rental registration receipt under Goshen City Code.

5.2. The fine shall be Two Thousand Five Hundred Dollars (\$2,500.00) for the first violation (the applicable number of incidents of Prohibited Conduct within the period identified in Section 3.1, 3.2, or 3.3). For a second and each subsequent succeeding separate violation (the applicable number of incidents of Prohibited Conduct within the period identified in Section 3.1, 3.2, or 3.3 at the same Property subsequent to the date of the incident of Prohibited Conduct establishing a first violation), a fine of Seven Thousand Five Hundred Dollars (\$7,500.00) shall be assessed to Owner and/or occupants.

6. Cooperation with Owner/Items Excluded from Definition of “Prohibited Conduct”.

6.1. An Owner of Property identified as a Disorderly Property is encouraged to communicate and cooperate with the Goshen Police Department and other City officials responsible for code enforcement.

6.2. It is not the intent of this Ordinance to discourage anyone from requesting police assistance – especially the victim of domestic violation and/or child abuse or neglect. Indiana Code § 35-31.5-2-78 (crime of domestic violation), Indiana Code § 31-33-1-1 (reporting of suspected or known incidents of child abuse or neglect), Indiana Code § 35-46-1-4 (neglect of a dependent), and other related statutes are specifically excluded from Section 2.3. In addition, ambulance calls, welfare checks, routine traffic stops, and motor vehicle accidents are also specifically excluded from Section 2.3.

6.3. It is also not the intent of this Ordinance to resolve disagreements or disputes between neighbors. Rather, it is to alleviate the impact on City resources created by chronic unlawful or nuisance activity and minimize the detrimental effects on citizens and neighborhoods through early intervention.

7. Miscellaneous.

7.1. Nothing in this Ordinance shall limit the City’s ability to otherwise declare any particular action or activity a public nuisance and/or pursue any other remedy allowed by law.

7.2. Any ordinance or provision of any ordinance of the City of Goshen, Indiana in conflict with the provisions of this Ordinance is hereby repealed.

7.3. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance that can be given effect without such invalid part or parts.

7.4. This Ordinance shall be in full force and effect from and after its passage, approval, and adoption according to the laws of the State of Indiana.

PASSED by the Goshen Common Council on _____, 2024.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 2024 at the hour of
____:____ __.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 2024.

Gina M. Leichty, Mayor