



Agenda for the Goshen Common Council

6:00 p.m., August 12, 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 Ivanna Rivas, a 5th-grader at Goshen Intermediate 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 Tageeya Galeb (Non-voting)

Approval of Minutes: June 14 Work Session and July 8, 2024 Regular Meeting

Approval of Meeting Agenda

Privilege of the Floor

- 1) Ordinance 5189** - An Ordinance Amending Rules for the Services of the Goshen Sewer Utility and Pretreatment Requirements and Standards (Second Reading)
- 2) Resolution 2024-14** – Interlocal Agreement with the County of Elkhart for the Establishment of the Marion Branch Quiet Zone
- 3) Approval of exemption request to Ordinance No. 4290, Sections 1E and 1F:** To allow for a water line to be constructed as a subordinate line from the residence to the garden’s cottage when not located on a single zoning lot at 2614 S. Main Street
- 4) Ordinance 5193** – Establishing a USDA Forest Service Grant Fund
- 5) Ordinance 5194** – Additional Appropriations (to pay expenses for Shanklin Park pool project and to spend funds associated with a USDA Forest Service grant)

Elected Official Reports

Adjournment

For a live stream of the meeting, go to: <https://us02web.zoom.us/j/81652777559>



MINUTES OF THE JOINT WORK SESSION ABOUT THE SHANKLIN POOL
Goshen Common Council and Parks & Recreation Board
10 a.m., June 14, 2024
Held at Goshen Chamber of Commerce, 232 S. Main Street, Goshen, IN

Common Council members present:

Phil Lederach (District 5)	Doug Nisley (District 2)	Megan Peel (District 4)
Donald Riegsecker (District 1)	Matt Schrock (District 3)	Brett Weddell (At-Large)
Absent: Linda Gerber (At-Large)		

Park & Recreation Board members present:

Megan Hessel (Member)	Roger Nafziger (President)	Jenni Samuel (Secretary)
Jennifer Shell (Vice President)		Absent: Jim Wellington (Member)

City staff members present included:

Deputy Mayor Mark Brinson
Superintendent of Parks & Recreation Tanya Heyde
Parks & Recreation Maintenance Director Kevin Yoder
City Redevelopment Director Becky Hutsell
City Attorney Bodie Stegelmann
Assistant City Attorney Don Shuler
City Director of Public Works & Utilities Dustin Sailor

Others present:

Kyle Lueken, Landscape Architect with HWC Engineering
Jeremy Stewart, Architect & Principal with 4021 Architecture
Sam Blake, Vice President of Business Development with Spear Corp.
Jason G. Semler, CPA & Principal with Baker Tilly Municipal Advisers

BACKGROUND:

Shanklin Pool is nearly 50 years old and has a bather capacity of 625 patrons. The pool is 7,500 square feet and has about 2,000 square feet dedicated to diving and slides. It has an open swimming area, a diving well, wading and toddler pools and seating areas. It also has a bathhouse, a mechanical building and a concessions building.

Over the years, the Mayor and City staff have advised Common Council members that the pool, which had been renovated once before, needed extensive renovations or replacement.

A work session was held June 14, 2024 by the Common Council and the Park & Recreation Board to discuss the future of Shanklin Pool. The work session was open to the public, but no votes or official actions were taken and no public comments were accepted. This work session consisted solely of presentations and discussions about the current status and future of the pool, which is located in Shanklin Park.



WORK SESSION SUMMARY:

The 89-minute meeting focused on the replacement of the Shanklin Pool. There was the presentation of a comprehensive plan developed by diverse group, including city officials, architects, engineers, and community representatives. The project, estimated at costing a maximum of \$14.3 million, would result in a family-friendly and inclusive facility with such amenities as a zero-entry pool, play structures, rentable cabanas and a new bathhouse. If approved, the new pool has a potential opening by Memorial Day 2026. Financing discussions highlighted the consideration of lease financing over traditional bond financing alongside additional funding through grants, donations and partnerships. The pool would include energy-efficient systems, and affordable access, resulting in increased attendance and revenue. The meeting concluded with a broad consensus about the importance of a community pool for future generations and a commitment to developing a project that will enhance the City's quality of life.

PRESENTATIONS & DISCUSSION BY PARTICIPANTS:

1) Welcome by Mayor Leichty, Introductions & Overview

Mayor Gina Leichty called the work session to order at 10:00 a.m.

Mayor Leichty thanked everyone for being presenting and described this as an "exciting" day. "You all have been working on this project for a long time prior to many of us being elected to office. So, we're excited to see this project continue," the Mayor said. She invited all those present to introduce themselves, which they did.

Superintendent of Parks & Recreation Tanya Heyde provided the background of the pool and the process of developing a replacement. Key points of her overview presentation:

- Shanklin Pool is an aging facility that was built in the late-1960s to early-1970s.
- Almost all of the pool's mechanics are original and have been maintained well beyond their expected life expectancy.
- Last year the City replaced the pool's pump impeller and the pump was reconditioned in the hopes it would last a few more years. but it already is experiencing some problems.
- The pool is requiring additional repairs and there are concerns about a major mechanical failure.
- To address the outdated pool facility, a task force was formed to consider alternatives.
- After engaging in an in-depth planning process, the task force recommended completely rebuilding the pool facility and bringing it into the 21st century.
- The City then entered into a preliminary design process with a consultant team from HWC Engineering.
- The task force has now endorsed a conceptual plan it would like the City to move forward with.
- HWC will discuss the master planning process, the conceptual design process and the proposed design.
- Afterward, Jason G. Semler with Baker Tilly Municipal Advisers will discuss possible funding through a pool bond and different bond scenarios.
- City staff will then discuss some additional funding opportunities and next steps.



2) HWC Engineering presentation about the pool master plan overview, final schematic design, construction timeline, cost estimate, market analysis and the proposed project delivery method

Kyle Lueken, a Landscape Architect with HWC Engineering, gave a comprehensive presentation using a 30-slide PowerPoint presentation titled “Shanklin Park Pool Design Update,” dated June 14, 2024 (EXHIBIT #1).

Key points of his presentation:

- In 2022, HWC conducted an “existing conditions analysis” prior to starting the master plan process, which included a walk-through of the pool facility with park staff and Sam Blake of Spear Corporation.
- The analysis included various options, including rehabilitation and replacement.
- In November 2023, HWC entered into the schematic design phase, which was a more detailed design phase for the pool facility.
- During its systematic design process, HWC had preliminary meetings with the Elkhart County Health Department and the Indiana Department of Natural Resources.
- One of the big challenges of the existing site is that it is the flood plain, so a pool renovation or replacement will require a new state permit, which could take many months to obtain.
- Keeping the same general “footprint” for the pool facility could expedite approval and reduce the possibility of unintended consequences.
- Besides its location in the flood plain, another site constraint is that electric lines are located to the west of the pool and these prevent a major expansion or a shift to the west.
- The current pool has a diving well, an open swim area, a wading pool and a toddler pool.
- As for its condition, the pool membrane is past its lifespan, the pool vessel concrete is starting to show wear and tear, and the pool gutter system needs upgrades or replacement.
- The piping system also needs upgrades as does the mechanical system, which includes the pump, the filtration equipment and the chemical disinfection equipment.
- The pool’s concrete deck has areas that need repair or replacement, the deck drainage needs repair or replacement, and the pool slides are passed their lifespan.
- In addition, the mechanical building needs upgrades to support new equipment, the bathhouse needs updating and improvement and the concessions building needs to be replaced.
- During the master plan process there was a desire for a new all-inclusive facility that would serve children, parents, preteens, young adults and older adults.
- Currently, the facility serves 300 to 500 kids a day on some days with clubs, camps and field trips.
- Desired new amenities include more lockers and storage space, more shade options, including rentable cabanas, play structures in the pool for children and a beach or zero entry pool without steps.
- There were also undesired amenities, including a preference against a lap pool for swimming competitions, no diving well, no wave pool and no splash pad.
- Three options were considered – renovating the existing pool to bring it up to code and make it more functional; renovating the pool using the existing footprint and buildings or replacing the pool facility with a completely new design.
- Ultimately the task force determined that an upgrade or renovation wouldn’t meet the needs of the community, would be costly to maintain and eventually the entire facility would need to be replaced.



- The preferred design would feature a new bathhouse, a new concessions and administration building, a zero-entry pool, a play structure, and a dedicated area for toddlers with a shade structure over it.
- Children would have a dedicated area away from some of the more active areas that could frighten or be uncomfortable for them.
- The new pool would have a maximum five-foot depth in the main part of the pool with a slide patch area of two slides, and a rentable cabanas area and group gathering areas, which would generate revenue.
- A market analysis, based on existing demographic data, demographic trends and national recreation trends, showed there would be no similar facility within a 30-minute drive to Goshen and that a facility that included such entertainment opportunities would be more successful than one focused on fitness or competition.
- The new pool would be positioned as a family-friendly, affordable and modern pool reflective of the local character with a primary intent to serve the Goshen market.
- As the work continued, HWC brought in Jeremy Stewart, an Architect & Principal with 4021 Architecture, to design the new buildings as well as structural consultants to help better meet the City's needs and refine the plans.
- Although there have been significant changes, the proposed design still has the main elements of the earlier design.
- The combined concessions and administration building would serve both visitors to the pool and the park and a potential party rental pavilion would raise revenue from birthday parties and other special events.
- HWC is recommending a Construction Manager at Risk (CMc) method to develop the project.
- Under this method, the City would select a contractor, before bidding, to manage the design process which would include collaborating with the designers, providing budget updates and proposing cost savings.
- The contractor would then solicit bids from sub-contractors for scopes of work and manage the project like they might if they were the general contractor.
- Under this method the City would not be caught off guard by the final cost or price and this also would result in a faster process because there would be more communication throughout the design process.
- Although the City would still be responsible for financing, the majority of the risks of unknowns in this process would be transferred to the contractor because at the conclusion of that design process, as bids were being sought, the contractor would enter into a contract with the City for a guaranteed maximum price with the contractor taking on the risk for potential change orders (cost increases).
- If approved soon, the projected opening day of the new pool would be Memorial Day 2026.
- However, to meet that timeline the City would need to retain a CMc contractor by July 2024, apply for a permit with the state to build a new pool in the flood plain by September 2024, seek bids in December 2024 or January 2025, start demolition in Spring 2025 and close the existing pool for the 2025 season.
- The most important step is applying for the state permit to build a new pool in the flood plain because it would likely be a six-month approval process.

3) Baker Tilly Municipal Advisers presentation about bond scenarios, the role of a building corporation and bond authorization



Jason G. Semler of Baker Tilly Municipal Advisors made a presentation about the financing of the pool project in which he reviewed information in a seven-page report, titled “Proposed Pool Project,” dated June 14, 2024 that was distributed during the work session.(EXHIBIT #2). Key points of his presentation:

- Baker Tilly has served as the City’s financial adviser for several decades and it was providing a timetable for potential financing and some preliminary costs.
- Based on the size of the project, Semler normally would recommend a traditional bond.
- Historically, such bonds count against the City’s debt limit, which is based upon the tax base – the assessed value of the City, which is really 2% of the City’s debt limit.
- Many smaller projects the City has done in the past have been funded this way and the bond has been repaid from property taxes.
- For larger projects that go above and beyond a City’s debt limit, a different financing mechanism must be used, such as lease financing.
- Many communities, schools and counties complete larger projects using the lease financing method because of their debt restrictions.
- As an example, the City of Goshen’s current debt limit, which is calculated taking that 2% of the City’s assessed value, would be a little over \$11 million.
- The City has a bond issue, issued in 2021, that is still outstanding and counts against that City’s debt limit.
- So, that leaves about \$9 million left while the proposed cost of the pool project could be \$14 million, which would be above that \$9 million that the City would have available.
- As a result, lease financing is a good option because a separate building corporation would be created to issue bonds to pay for the pool, with the Common Council’s approval, and the new corporation would build the pool and then lease it to the City.
- The City would make lease payments instead of bond payments to pay the pool’s costs.
- Currently, the City makes bond payments every six months to bond purchasers to pay the principal and interest on its bonds for past projects.
- Under lease financing, the City would make lease payments.
- From the controller standpoint, this arrangement would look identical to bond payments, but from a legal standpoint, the City would be making lease payments instead of bond payments.
- Still, lease payments, which don’t count against the City’s debt, would be payable from the property taxes that would be levied on the City’s taxpayers.

Semler answered a series of questions from Council members, Park and Recreation Board members, Deputy Mayor Brinson and Clerk-Treasurer Richard R. Aguirre about:

- The impact of a lease finance bond on the City’s property tax cap (it would still be below the cap),
- The rates for a traditional bond vs. a lease finance bond (the same because of the City’s strong credit);
- What would happen when all lease finance payments are paid (the pool would be transferred to the City);
- The impact on a proposed bond to pay for renovations at the Goshen Public library (no affect on its own debt limit restrictions);
- Would the lease financing go through the same bond rating process as with traditional bonds (yes);



- What corporation would build and lease the pool (a new three-member board appointed by the City);

City Redevelopment Director Becky Hutsell described three handouts distributed to Councilors and Park and Recreation Board members.

Hutsell said that at the City's request, **Baker Tilly** conducted an **analysis** based on a worst case scenario if the City was funding the entire pool project. The analysis was included in **EXHIBIT #2**.

Hutsell said **Ice Miller LLP**, which is the bond counsel, put together a three-page **memorandum**, dated June 14, 2024 (**EXHIBIT #3**), about the role of a building corporation, which would be new to Goshen, and what the steps are needed to create that. The memorandum also explored using a construction manager as constructor, which is the delivery method being consider.

Hutsell said she also provided those present with a **lease financing timetable**, also prepared by **Ice Miller LLP**, and dated June 14, 2024 (**EXHIBIT #4**), which described the long process of issuing bond to build the pool..

Hutsell said, "So assuming that we started our July 8th Council meeting with first approvals, there are multiple steps between now and May of next year when we're ready to actually close on bonds and proceed. And so, our timetables always shifts a little bit, but what you see with this one is, there's not a lot of time to shift, there's a lot of deadlines that's scheduled to follow. So that's important."

Semler said that in order to issue the appropriate amount of bonds it will be necessary to convene many meetings over the summer and fall to secure the needed approval, adding, "That way when we do receive the guaranteed maximum price, we can sell the bonds very soon after that and have money in hand to start construction."

In response to a question from **Deputy Mayor Brinson**, **Semler** described the reimbursement process. He said the Council would need to approve a reimbursement resolution to pay professional fees that would be reimbursed from bond proceeds. But if the City wanted to expedite the process by paying for any construction costs ahead of time, **Semler** said the Council would need to approve the resolution earlier, which would allow the City to use cash on hand from existing sources and then reimburse them after the bond proceeds arrived.

4) City of Goshen discussion about additional funding opportunities, action items and next steps:

Superintendent of Parks & Recreation Tanya Heyde said the estimate that the pool would cost the City \$14.3 million was the "worst case scenario." She outlined these additional funding opportunities:

- A possible \$1 million grant from the Community Foundation of Elkhart County. The application deadline is July 1 and a funding decision should be made in two or three months.
- The pool project has also been included in Goshen College's application to the Lilly Endowment and a decision on the \$1.5 million request should be made in a few months.
- The City intends to apply for \$2.5 million in state READI 2.0 funds.
- The City has already redirected the \$300,000 that was received from the state for the proposed multi-purpose pavilion or ice rink project, which were canceled.
- And the City plans to seek donations from individuals.



Heyde said all those funds will reduce the amount of the bond that will be sought or at least will be able to be used to make the lease or bond payments.

Council President Weddell added, “For those of you who may not know, the Goshen Rotary Club paid for the first pool and the second pool. Goshen Rotary will not pay for the third pool, but has committed to making this a major project ... We've done major projects in the range of low end of \$35,000 up, so I think \$75,000 ... Goshen Rotary is committed to being a partner in this.”

During the subsequent discussion work session participants:

- Discussed possible state funding for the project and when it might arrive (possibly in the fall);
- Learned that it may be a few more months before a final guaranteed price for the pool is determined;
- Discussed the support of Common Council members for the project;
- Learned that if a Council decision is made soon to proceed with the project, the City pool may only need to be closed for a year, but if there are delays it could be closed for two years;
- Were told that the CMC constructor model is often used to build public schools;
- Learned that the City will be launching community fundraising for the pool and there will be sponsorship opportunities for various aspects of the project;
- Were told that City staff may soon be seeking authorization from the Council to spend cash on hand to pay for pool design costs so the project can move forward and that those funds later will be reimbursed from the eventual bond;
- Learned that one source for the short-term loans was the City's Major Moves Fund;
- Because planning for the pool is so far along and the City is committing funds, they learned the City was in a good position to receive grants and state funding.
- If the Council moves forward with the project, participants learned the City will be making lease bond payments for many years and that this will require the City to raise about \$390,000 in additional yearly revenue or make general fund budget cuts of that amount to offset the economic impact of the bond;
- Were told that although individual property taxes would not be increased if the bond was approved, commercial properties would face property tax increases.
- And learned that a new pool would be expected to generate additional revenue for the City from admissions, concessions and rentals;

Superintendent Heyde discussed with participants four color “story maps” she distributed with detailed demographic information about 2023 Shanklin Park users from areas with depression prevalence, social vulnerability, obesity prevalence, and minority populations (**EXHIBIT #5**).

Heyde said the story maps were submitted as part of Goshen College’s application to the Lilly Endowment. She also said the maps document the current pool’s impressive range of users from throughout the community.

In response to a question from **Council President Weddell** about the reason for the college’s proposal, **Mayor Leichty** said the Lilly Endowment was providing the grant to build relationships between colleges and communities that have to do with health and wellness. She added, “This is part of their overall initiative and they are asking for



something that's an important community asset, not only for students but for families of professors who would live in the area, and is something that would make the community more attractive. So, it's part of that overall initiative.”

Other issues discussed or points made during the work session:

- The impact of the bond on the property taxes paid by commercial property owners;
- The project interest rate for the bond;
- The likely higher cost of obtaining the bond from the Indiana Bond Bank vs. the rate the City could obtain on the open market because of its strong credit;
- Other City funds that could be used to provide short-term loans, between this fall and next spring, to pay for pool project costs;
- Although one of the most important services that the pool offers is swimming lessons, when the pool is closed next year it is unlikely the City will be able to find another pool to provide lessons;
- And the City is at the end of its current contract with HWC Engineering, so it will be necessary for the Common Council to approve moving forward for project work to continue.

There was a consensus among participants that the City of Goshen is committed to maintaining a public pool. As **Council President Weddell** stated, “I don't know Goshen without a pool and I can't imagine the future of Goshen without a pool.” **Councilor Nisley** added, “I support it pretty much. And I think, like Brett, that Goshen needs a pool.”

City Redevelopment Director Hutsell responded, “I think Goshen government is different in one way. A private entity would build a pool, but then they're going to have to generate revenues from the pool to cover the costs. We are not looking to increase the fees of the pool to cover all of these costs, but we want to be creative and search for partnerships so that it continues to be a very affordable amenity. I mean, that's what's always made it great. And so, I think it's really important that we preserve that.”

Additional issues discussed and points made during the work session:

- The City of Goshen is allowed to charge enough to pay its costs, but isn't allowed to make a profit;
- A new pool could be expected to save the City money on utility costs through more efficient equipment;
- A new pool would likely prompt a substantial increase in users;
- Pools today have a lifespan of about 40 years;
- A new pool would be an attractive amenity for residents and would probably attract people who live a 30-minute drive away or more because there are no similar public pools;
- Federal funding and NIPSCO energy rebates could be available to offset some of the costs of energy-efficient pool equipment;
- City staffing for the new pool would not change much because the pool facility would be close to the same size as the current pool and maintenance costs would likely remain about the same.

Mayor Leichy concluded the work session with the following comments:



“One of the things that excites me the most is that pools are the great equalizer of the community. It's a place where the entire community comes together. And as Becky (Hutsell) mentioned, we want to continue to make sure that this is something that's available to everybody at every economic level.

Mayor Leichty continued:

“And we know that it's already utilized that way. We have the data on the demographics already to show how important this is to so many segments of our community. At the same time, we would be increasing the potential revenue for this pool and creating something that really is a legacy project, too.

“We know that we're looking at another 40 years of a great asset and when you think about how much kids are inclined to spend their summers on their screens, here's an opportunity. This is a driver that gets kids outside and connecting with each other.”

The Mayor concluded:

“So, I'm really excited about the opportunity that's in front of us. And I know that we're all taking that responsibility of taking on additional debt very seriously. And I commit to you that we are going to work tirelessly to make sure that we're exploring every possible financial opportunity to make sure that this is as close to cash flow positive as it can possibly be. So, thanks for your time today. Thank you.”

Adjournment:

Mayor Leichty adjourned the meeting at 11:29 a.m.

EXHIBIT #1: A 30-slide PowerPoint presentation, titled “Shanklin Park Pool Design Update,” dated June 14, which was presented at the work session by Kyle Lueken, a Landscape Architect with HWC Engineering.

EXHIBIT #2: A seven-page report, titled “Proposed Pool Project,” dated June 14, 2024, about pool financing options that was prepared and summarized by Jason G. Semler of Baker Tilly Municipal Advisors during the work session.

EXHIBIT #3: A three-page memorandum by Ice Miller LLP, dated June 14, 2024, about the role a building corporation and what the steps are needed to create that and the use of a construction manager as constructor. City Redevelopment Director Becky Hutsell distributed the memorandum to participants at the work session.

EXHIBIT #4: A three-page lease financing timetable, also prepared by Ice Miller LLP, and dated June 14, 2024, which described the long process of issuing bond to build the pool. City Redevelopment Director Becky Hutsell distributed the timetable to participants at the work session.



EXHIBIT #5: Four color “story maps” with detailed demographic information about 2023 Shanklin Park users from areas with depression prevalence, social vulnerability, obesity prevalence, and minority populations. Superintendent Heyde distributed to work session participants the maps, which were submitted as part of Goshen College’s pool grant application to the Lilly Endowment.

APPROVED:

Gina Leichty, Mayor of Goshen

ATTEST:

Richard R. Aguirre, City Clerk-Treasurer



GOSHEN COMMON COUNCIL

Minutes of the July 8, 2024 Regular Meeting

Convened in the Council Chamber, Police & Court Building, 111 East Jefferson Street, Goshen, Indiana

At 6:01 p.m., Assisted by Mayor Gina Leichthy, Audrina Martinez (a 7th-grader at Goshen Middle School) called the meeting to order and led the Pledge of Allegiance.

Mayor Leichthy asked Clerk-Treasurer Aguirre to conduct the roll call.

Present: 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)

Absent: Youth Adviser Tageeya Galeb

Approval of Minutes (delayed):

Mayor Leichthy asked the Council's wishes regarding the minutes of the May 13 and June 10 Regular Meetings as prepared by Clerk-Treasurer Aguirre. Councilor Nisley moved to accept the minutes of the May 13 and June 10 Regular Meetings as presented. Councilor Schrock seconded the motion. **Motion passed 7-0 on a voice vote.**

Approval of Meeting Agenda:

Mayor Leichthy presented the agenda with the recommendation by City Attorney Bodie Stegelmann that the order of agenda items #1 and #2 be reversed. Council President Weddell moved to approve the agenda as suggested. Councilor Peel seconded the motion. **Motion passed 7-0 on a voice vote.**

Privilege of the Floor:

At 6:03 p.m., Mayor Leichthy invited public comments for matters not on the agenda. There were none

1) Ordinance 5184 - Authorizing the Use of Off-Road Vehicles on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such

Mayor Leichthy called for the introduction of Ordinance 5184, *Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5192 by title only, which was done.

Weddell/Nisley made a motion to approve Ordinance 5184 on First Reading.

BACKGROUND:

Ordinance 5184 would authorize the use of Off-Road Vehicles on highways under the jurisdiction of the City of Goshen and impose requirements for such usage. It stemmed from the prevalence of off-road vehicles, the increasing use of them in counties and cities throughout Indiana, and requests by users of such vehicles to operate them on roadways under the jurisdiction of the City of Goshen.

As amended and eventually approved by the Common Council, Ordinance 5184 is a four-page document that provides definitions of off-road vehicles, requirements for operation (including rules, required equipment, operators, financial responsibility and permits required), and violations, enforcement and penalties for violations.



Ordinance 5184 includes the following provisions and language:

Section 3. Requirements for Operation of Off-Road Vehicles.

A. Rules.

1. A person who operates an Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen must comply with all federal, state, and local traffic laws as if the Off-Road Vehicle were a passenger motor vehicle as defined in I.C. § 9-13-2-123. Off-Road Vehicles may not be operated in a manner that endangers life or property.
2. No person may operate an Off-Road Vehicle on highways under the jurisdiction of the City of Goshen unless all passengers of said vehicle are seated in a factory installed seat position attached to the vehicle, with seatbelt restraints properly fastened as specified by the manufacturer.
3. An Off-Road Vehicle which is only operated at twenty-five (25) miles per hour or less shall display the slow-moving vehicle emblem described by I.C. § 9-21-9-2.
4. All occupants within the Off-Road Vehicle less than eighteen (18) years of age must wear a helmet per I.C. § 9-18.1-14-11, except as permitted by state law.

B. Equipment.

1. Off-Road Vehicles must be equipped with the minimum safety equipment as set forth in I.C. 14-16-1, as amended from time to time, in order to be registered and operated on highways under the jurisdiction of the City of Goshen.
2. All safety equipment must be maintained in good operating order. Lights must be used at all times in order for the Off-Road Vehicle to be visible from a distance of at least five hundred (500) feet.
3. Failure to equip, maintain and use such equipment as required herein shall constitute a violation of this Ordinance.

C. Operator.

1. Only individuals sixteen (16) years of age or older, who have been issued a driver's license from a State Bureau of Motor Vehicles, and whose driver's license is not suspended or revoked, may operate an Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen.
2. The owner of a Off-Road Vehicle may not cause or knowingly permit an individual to operate the Off-Road Vehicle on highways under the jurisdiction of the City of Goshen unless the individual holds a valid driver's license from a State Bureau of Motor Vehicles, that is not suspended or revoked.

D. Financial Responsibility.

1. A person shall not operate an Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen without current financial responsibility in effect on said vehicle in accordance with I.C. § 9-25-4-4, as amended from time to time.
2. A person who operates an Off-Road Vehicle on a highway under the jurisdiction of the City of Goshen must, at all times, maintain the state required minimum amount of financial responsibility in accordance with I.C. § 9-25-4-5, as amended from time to time.

E. Highways under the jurisdiction of the City.

1. Off-Road Vehicles shall not be operated on any bicycle path, trail, sidewalk, or any public property within the City that is not designated for vehicular traffic.
2. Off-Road Vehicles shall be allowed on any highway within the corporate boundaries of the City that is designated as part of the Indiana State Highway System specifically S.R. 119 between Greene Rd. and US 33, S.R. 15 between Hackett Rd. and Egbert Rd., S.R. 4 to S. 29th St., and U.S. 33 between Glenmore Ave and CR138.



Section 4. Permits.

- A. No Off-Road Vehicle may be operated within the City unless the owner of such Off-Road Vehicle shall have applied for and obtained a valid Off- Road Vehicle registration from the State of Indiana per I.C. 9-18.1-14.
- B. The Indiana Bureau of Motor Vehicles issues a certificate of registration and two decals for each Off-Road Vehicle and registration. The certificate of registration must accompany the Off-Road Vehicle and be made available for inspection upon demand by a police officer. The decals contain the Off-Road Vehicle's registration number and expiration date and must be attached on the forward half of the Off-Road Vehicle.
- C. No City of Goshen permit, decal, or inspection is required of Off-Road Vehicles registered through the State of Indiana Bureau of Motor Vehicles as prescribed by I.C. 9-18.1-14.

Section 5. Violations, Enforcement, and Penalties.

- A. Violation notices issued under this Ordinance may be issued by any sworn member of the Goshen Police Department, any City code enforcement officer, any designated parking enforcement officer, or any other duly authorized city inspector or designated code enforcement agent or assistant.
- B. 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.
- C. The City may enforce this Ordinance by filing an action in any court of general jurisdiction.
 - 1. Any person who violates Section3(A)(1) of this Ordinance will be deemed to have committed an ordinance violation and may be fined as if the person had violated I.C. § 9-13-2-123, but in no case be fined more than a maximum of \$2,500.00.
 - 2. Any person who violates Section3(A)(3) of this Ordinance will be deemed to have committed an ordinance violation and may be fined as if the person had violated I.C. § 9-21-9-2 but in no case be fined more than a maximum of \$2,500.00.
 - 3. Any person who violates Section3(D) of this Ordinance will be deemed to have committed an ordinance violation and may be fined as if the person had violated I.C. § 9-25-8-2 but in no case be fined more than a maximum of \$2500.00.
 - 4. Any person who violates any provision of the Ordinance for which a penalty is not otherwise provided will be deemed to have committed an ordinance violation and may be fined not more than \$500 for each offense.
- D. A person who violates this Ordinance may be subject to the impoundment of the Off-Road Vehicle.
- E. All fines or civil penalties collected shall be deposited in the general fund of the City of Goshen.

In addition: 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.

SUMMARY OF JULY 8, 2024 COUNCIL CONSIDERATION & APPROVAL OF ORDINANCE 5184:

Mayor Leichty began by thanking all of those who worked on a task force to refine the ordinance after it was first considered by the Common Council on May 13, 2024. The task force included an off-road vehicle owner, Councilors and City staff. She asked **City Attorney Stegelmann** to discuss the next steps to consider Ordinance 5184.

City Attorney Stegelmann suggested that Councilors amend Ordinance 5184, which previously dealt with off-road vehicles and golf carts, to match the redline version included in the Council's agenda' packet.



Council President Weddell made a motion to amend Ordinance 5184 as outlined in the redline version of the ordinance provided by the City Attorney. Councilor Nisley seconded the motion.

There were no questions or comments from Councilors.

On a voice vote, Councilors unanimously voted to amend Ordinance 5184, *Authorizing the Use of Off-Road Vehicles on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such*, to the redline version by a 7-0 margin, with all Councilors voting yes, at 6:05 p.m.

Mayor Leichty invited Council President Weddell to discuss the changes made to Ordinance 5184.

Council President Weddell said he and **Councilors Nisley and Peel** served on the task force with **Police Chief José Miller, Assistant Fire Chief Anthony Powell, City Attorney Stegelmann** and off-road vehicle owner **Daniel Emery**. He said the revised ordinance is consistent with state law and similar ordinances passed by Elkhart County and Middlebury so that off-road vehicle owners won't face different rules in different communities. He added that off-road vehicles are issued three-year permits to operate.

Councilor Peel said that when Ordinance 5184 came to the Common Council in May it regulated both golf carts and off-road vehicles, but it was tabled by the Council to create separate ordinances. **Council President Weddell** said off-road vehicles and golf carts are separate entities and it made more sense to regulate them separately.

Councilors Riegsecker, Peel, Weddell and Daniel Emery briefly discussed a provision of the ordinance – Section 3. Requirements for Operation of Off-Road Vehicles, A. Rules, 3 – which states as follows: “An Off-Road Vehicle which is only operated at twenty-five (25) miles per hour or less shall display the slow-moving vehicle emblem described by I.C. § 9-21-9-2.” They concluded it would only apply to off-road vehicles that cannot operate at more than 25 miles per hour.

Noting that he had previously voiced concern about the ordinance, **Councilor Lederach** asked **Police Chief Miller** what he thought about the revised ordinance. **Chief Miller** said, “After talking to some people about these off-road vehicles, I feel a lot better. As far as the safety issues, I think there's still going to be the potential of mischievous teenagers, but I think that's with anything, including vehicles. But the main concerns that I had they've been eliminated with my conversation I've had, so I feel pretty good about it.”

After brief conversation about how best to proceed, Mayor Leichty invited questions or comments about Ordinance 5184 from the audience at 6:12 p.m.

Daniel Emery of Elkhart thanked Councilors and City staff for their work on Ordinance 5184, noting that he was “super happy” with the efforts and the outcome. “You do have all your supporters here, and we're very excited to be able to come and spend money here,” he said. “Thank you very much for everything that you guys have done.”

Glenn Null of Goshen said he would prefer that off-road vehicles display “slow moving vehicle signs” whenever they are traveling at less than 25 mph and at other times to increase their visibility and safety.

Deak Thornton of Elkhart County, the president of the Indiana Snowmobile Association, thanked the Council for considering the ordinance, noting that it was not without a risk. “I know you've kind of taken a chance with this ordinance because it's a first time thing in the City. And I just want you and the Chief of Police to know that if there are problems, which there could be, contact us because we want this thing to work, and we're willing to talk to the people that might not be as eager to obey some of the ordinances than we are. So, if we can create a more positive effect on ATVers in this City, we are willing to do that.”



Mayor Leichthy asked **Thornton** to share his contact information with **Chief Miller**.

In response to **Glenn Null**'s concern, **Chief Miller** said he initially was concerned that some of the vehicles might not have "slow moving vehicle" signs. However, he said "whether it's a golf cart or the off-road vehicle, they're required to use their lights at all times, so that was one plus that I was very pleased that they were able to put into this ordinance, and I feel to help out the safety quite a bit."

There were no further questions, so **Mayor Leichthy** closed the public comment period at 6:18 p.m. By a show of hands, the Mayor asked about those in the audience who favored or opposed the ordinance.

There were no further questions from Councilors. Council President **Weddell** said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Ordinance 5184, Authorizing the Use of Off-Road Vehicles on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such, on First Reading by a 7-0 margin, with all Councilors voting yes, at 6:18 p.m.

Councilors gave unanimous consent to proceed with a second reading and vote on Ordinance 5184.

Mayor Leichthy called for the introduction of Ordinance 5184, *Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such*. Council President **Weddell** asked the Clerk-Treasurer to read Ordinance 5192 by title only, which was done. **Weddell/Schrock made a motion to approve Ordinance 5184 on Second Reading.**

The Mayor invited further comments or questions from the Council and the audience. There were none. Council President **Weddell** said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Ordinance 5184, Authorizing the Use of Off-Road Vehicles on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such, on Second Reading by a 7-0 margin, with all Councilors voting yes, at 6:19 p.m.

NOTE: The final revised version of Ordinance 5184, which was approved is attached as EXHIBIT #1.

2) Ordinance 5192 - Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such

Mayor Leichthy called for the introduction of Ordinance 5192, *Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such*. Council President **Weddell** asked the Clerk-Treasurer to read Ordinance 5192 by title only, which was done. **Weddell/Peel made a motion to approve Ordinance 5192 on First Reading.**



BACKGROUND:

Ordinance 5192 would authorize the use of Golf Carts on highways under the jurisdiction of the City of Goshen and impose requirements for such usage. It stemmed from the prevalence of golf carts, the increasing use of them in counties and cities throughout Indiana, and requests by users of such vehicles to operate them on roadways under the jurisdiction of the City of Goshen.

As amended and eventually approved by the Common Council, Ordinance 5192 is a five-page document that provides definitions of golf carts, requirements for operation (including rules, required equipment, operators, financial responsibility and permits required), and violations, enforcement and penalties for violations.

Ordinance 5192 includes the following provisions and language:

Section 3. Requirements for Operation of Golf Carts.

A. Rules.

1. A person who operates a Golf Cart on a highway under the jurisdiction of the City of Goshen must comply with all federal, state, and local traffic laws.
2. A person who operates a Golf Cart on a highway under the jurisdiction of the City of Goshen must comply with slow moving vehicle regulations under I.C. 9-21-9, as amended from time to time, including the requirement that such vehicle properly display a slow-moving vehicle emblem.
3. No Golf Cart may be operated on a highway under the jurisdiction of the City of Goshen in excess of 25 miles per hour.
4. No person may operate a Golf Cart on highways under the jurisdiction of the City of Goshen unless all passengers of said vehicle are seated in a factory installed seat position attached to the vehicle, with seatbelt restraints properly fastened as specified by the manufacturer.
5. A Golf Cart may not be operated in a manner that unreasonably impedes the normal flow of traffic, and may not be operated in a manner that endangers life or property.

B. Equipment.

1. Unless otherwise exempted herein, all Golf Carts must be equipped consistent with I.C. § 9-21-9-4, as amended from time to time, with the following minimum safety equipment in order to be permitted and operated on highways under the jurisdiction of the City of Goshen:
 - (a) A rear-view mirror;
 - (b) Head lights;
 - (c) Tail lights;
 - (d) Brake lights;
 - (e) Turn signals (front and back);
 - (f) Factory installed seat belt restraints or DOT approved after-market installed belt restraints for ALL seating positions;
 - (g) Have installed an ATV/UTV orange safety flag; and
 - (h) Slow moving vehicle emblem.
2. All safety equipment must be maintained in good operating order. Lights must be used at all times. Failure to equip, maintain and use such equipment as required herein shall constitute a violation of this Ordinance.



C. Operator.

1. Only individuals sixteen (16) years of age or older, who have been issued a driver's license from a State Bureau of Motor Vehicles, and whose driver's license is not suspended or revoked, may operate a Golf Cart on a highway under the jurisdiction of the City of Goshen.
2. The owner of a Golf Cart may not cause or knowingly permit an individual to operate the Golf Cart on highways under the jurisdiction of the City of Goshen unless the individual holds a valid driver's license from a State Bureau of Motor Vehicles, that is not suspended or revoked.

D. Financial Responsibility.

1. A person shall not operate a Golf Cart on a highway under the jurisdiction of the City of Goshen without current financial responsibility in effect on said vehicle in accordance with I.C. § 9-25-4-4, as amended from time to time.
2. A person who operates a Golf Cart on a highway under the jurisdiction of the City of Goshen must, at all times, maintain the state required minimum amount of financial responsibility in accordance with I.C. § 9-25-4-5, as amended from time to time.

E. Highways under the jurisdiction of the City.

1. Golf Carts shall not be operated on any bicycle path, trail, sidewalk, or any public property within the City that is not designated for vehicular traffic.
2. Golf Carts SHALL NOT be operated on any highway within the corporate boundaries of the City that is designated as part of the Indiana State Highway System (e.g., S.R 119, S.R. 15, S.R. 4, and U.S. 33). (See I.C. § 9-21-1-3.3).
3. Golf Carts MAY be operated on any highway within the corporate boundaries of the City that has a posted speed limit of 30 mph or less, and highways that do not have a posted speed limit, but have a speed limit of 30 mph or less as prescribed by Indiana State Statute.
4. Golf Carts SHALL NOT be operated on any highway within the corporate boundaries of the City that has a posted speed limit of 35 mph or more, and highways that DO NOT have a posted speed limit, but have a speed limit of 35 mph or more as prescribed by Indiana State Statute.
5. In addition, Golf Carts are permitted to cross highways, on which they are otherwise not permitted to operate, at right angles in order to travel from one highway to another highway when the operation can be done safely.

Section 4. Permit.

A. No Golf Cart may be operated within the City, unless the owner of such Golf Cart shall have applied for and obtained a valid Golf Cart permit from the City.

1. This excludes golf carts owned by golf courses, located within the City of Goshen, and utilized for operation on a golf course for sporting or recreational purposes.

B. Application for such a permit must be made utilizing the application form as approved from time to time by the Board of Public Works and Safety.

C. The fee for such application shall be Fifty Dollars (\$50), payable to the City of Goshen. Such permit shall have an effective length of the applicant's ownership of the vehicle.

D. Issuance of said permit MUST INCLUDE visual inspection of the Golf Cart during normal business hours by a member of the Goshen Police Department or the Goshen Fire Department to determine compliance.

E. Upon issuance of a permit, the Golf Cart owner shall be provided a decal, which must be affixed to the left rear of the vehicle at all times so as to be visible from the rear of the vehicle.



F. A person or entity may apply for a temporary permit for the use of a Golf Cart during or in connection with an authorized parade or festival. Any petition for a temporary permit must be presented to the Board of Public Works and Safety, which shall have the authority to determine if a temporary permit for a specific use and limitations shall be issued, and to issue said temporary permit. Any issuance of temporary permit with limitations approved by Board of Public Works and Safety will have an effective period not longer than five days from the effective start date of the temporary permit, as determined by the Board of Public Works and Safety. The temporary permit and or paperwork must accompany the Golf Cart at all times of use.

Section 5. Violations, Enforcement, and Penalties.

A. Violation notices issued under this Ordinance may be issued by any sworn member of the Goshen Police Department, any City code enforcement officer, any designated parking enforcement officer, or any other duly authorized City inspector or designated code enforcement agent, or assistant.

B. 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.

C. 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.

D. A person who violates this ordinance may be subject to the impoundment of the Golf Cart and/or revocation of a permit issued under this Ordinance.

E. All fines or civil penalties collected shall be deposited in the general fund of the City of Goshen.

In addition: "This ordinance shall be in full force and effect November 1, 2024, and after its passage, approval and adoption according to the laws of the State of Indiana."

SUMMARY OF JULY 8, 2024 COUNCIL CONSIDERATION & APPROVAL OF ORDINANCE 5192:

Mayor Leichty invited comments from Councilors.

Council President Weddell said the same group that worked on the off-road vehicle ordinance also worked on Ordinance 5192 (golf carts)

Councilor Peel described a series of proposed amendments, which included a revised effective date (Nov. 1, 2024) for an approved ordinance, correction of a typographical error, adding "slow-moving vehicle" signs to the list of required equipment, and adding the Goshen Fire Department as an agency that can inspect golf carts.

Councilor Nisley made a motion to amend Ordinance 5192 as suggested by Councilor Peel. Councilor Lederach seconded the motion.

There were no other questions or comments from Councilors.

On a voice vote, Councilors unanimously voted to amend Ordinance 5192, Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such, as proposed by Councilor Peel by a 7-0 margin, with all Councilors voting yes, at 6:24 p.m.

Councilor Schrock proposed that Ordinance 5192 be revised to make clear that lights must be used at all times. There was brief discussion by Councilors and advice from **City Attorney Stegelmann** about the proposal.



City Attorney Stegelmann ultimately suggested deleting Section 3, A, 4 and that Section 3, B. Equipment, 1. be amended to read, "Unless otherwise exempted herein, all Golf Carts must be equipped in compliance with Indiana Code § 9-21-9-4, with the following minimum safety equipment in order to be permitted and operated on highways under the jurisdiction of the City of Goshen."

Councilors Weddell made a motion to amend Ordinance 5192 as suggested by City Attorney Stegelmann. Councilor Nisley seconded the motion.

On a voice vote, Councilors unanimously voted to amend Ordinance 5192, Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such, as suggested by the City Attorney by a 7-0 margin, with all Councilors voting yes, at 6:28 p.m.

Council President Weddell said one of the concerns he had about the original ordinance was safety, which is why he said the ordinance was amended to require safety equipment. He said the ordinance will also require education and inspection of golf carts to enhance safety.

Mayor Leichty said because of such concerns City staff requested a delay in implementation of the ordinance to give staff an adequate amount of time to educate the public about the rules that will be in force to make sure everyone knows. So, that additional time is very important.

Councilor Gerber said one of her concerns was not higher speeds, but about golf carts that may travel at lower speeds and could slow traffic and irritate drivers. She asked **Police Chief Miller** to provide his perspective.

Chief Miller said if golf carts are traveling at 25 mph on a 30 mph road, there is not much of a delay. He said golf carts designed for golf courses move much slower, but gas-operated and street legal golf carts go anywhere from 20 to 23 mph on average. So, he said he doesn't believe slower-moving golf carts will be much of a problem.

Councilor Riegsecker suggested that a map of allowable driving locations be provided at the time of golf cart inspections. **Mayor Leichty** said that was part of the City's plan.

Councilor Gerber said she didn't think golf carts would be replacing regular motor vehicles because of restrictions of where they can operate in the City. "As far as transportation is concerned, I think about people trying to get to Kroger from various parts of town. They won't be able to do that," she said.

"We won't be able to get out to the fairground from downtown, so there are going to be some limitations," **Councilor Gerber** said. "We would need a different solution to be able to make that work. So as (the Mayor) described, this is a quality of place decision and not so much a replacing cars as a reliable mode of transportation in our community."

At 6:37 p.m., Mayor Leichty asked if there were any questions or comments about Ordinance 5192 from the audience.

Glenn Null of Goshen said liked idea of golf carts having to display an orange safety flag to improve the visibility of golf carts for motorists. Further, he said he hoped the golf cart inspections would be conducted by trained police and fire personnel. He also said he was glad golf carts wouldn't be operating on roads with higher speed limits.

In response to **Null's** concern about trained inspectors, **Assistant Fire Chief of Operations Anthony Powell** said the police and fire departments have created an inspection checklist. He also said City employees have been inspecting bicycles for more than 25 years, so golf cart inspections won't be a problem.



Councilor Peel and **Council President Weddell** said people will be asked to make appointments for inspections. They said the delay in implementation of the ordinance should give City staff time to prepare.

There were no further comments, so Mayor Leichty closed the public comment period at 6:40 p.m.

Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Ordinance 5192, Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such, on First Reading by a 7-0 margin, with all Councilors voting yes, at 6:41 p.m.

Councilors gave unanimous consent to proceed with the Second Reading of Ordinance 5192.

Mayor Leichty called for the introduction on Second Reading of Ordinance 5192, *Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5192 by title only, which was done.

Weddell/Peel moved to approve Ordinance 5192 on Second Reading.

At 6:41 p.m., Mayor Leichty invited Council or audience comments on Ordinance 5192. There were none. Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Ordinance 5192, Authorizing the Use of Golf Carts on Highways under the Jurisdiction of the City of Goshen, Indiana and Imposing Requirements for Such, on Second Reading by a 7-0 margin, with all Councilors present voting yes, at 6:42 p.m.

Council President Weddell said, "A big thank you to all those involved. I think this is another good example of how this Council has been working together." The **Mayor** said, "Yes. A tremendous amount of work went into that."

NOTE: The final revised version of Ordinance 5192, which was approved, is attached as EXHIBIT #2.

3) Resolution 2024-13 Resolution of the Common Council of the City of Goshen, Indiana, approving the issuance of General Obligation Bonds by the Goshen Public Library regarding the Construction and Equipping of a certain Library Capital Project

Mayor Leichty called for the introduction of Resolution 2024-13, *A Resolution of the Common Council of the City of Goshen, Indiana, approving the issuance of General Obligation Bonds by the Goshen Public Library regarding the Construction and Equipping of a certain Library Capital Project*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2024-13 by title only, which was done.

Weddell/Schrock made a motion to approve Resolution 2024-13.



BACKGROUND:

Resolution 2024-13 would approves (i) the issuance of the bonds by the Library and (ii) the appropriation of the proceeds of the bonds by the Library, both of which were approved by the Library Board of the Library at its meeting on June 18, 2024. The Bonds are being issued to pay the costs of all or a portion of an HVAC improvement project and related improvements at the Library, which is located at 601 South 5th S. in Goshen.

Pursuant to the Resolution 2024-13 and prior resolutions adopted by the Library Board, the bonds are being issued in an amount not to exceed **\$3,990,000**, shall have a final maturity date not later than ten (10) years from the date of their issuance and shall bear interest at a maximum rate not to exceed five and one-half percent (5.50%).

In a letter to the Council, dated July 1, 2024, **Library Director Ann-Margaret Rice** wrote that the Common Council was the Goshen Public Library's fiscal body and was responsible for reviewing its requests to issue debt and raise its budget beyond the allotted growth quotient.

Rice wrote that the library has been a mainstay in Goshen for 125 years and serves about 38,000 residents in Elkhart Township. It makes available 180,000 physical items and offers a large collection of digital content. During 2023, the library had more than 130,000 visitors to the building and hosted more than 560 programs for all ages.

Rice wrote that the library's present building was constructed in 1968 and went through a major renovation with the addition to the building, which was completed in 1994, with few significant updates since then.

During 2020, **Rice** wrote that the library completed a comprehensive long-range plan to identify current and future needs. This sparked many initiatives including a feasibility study, which revealed the need to replace aging infrastructure, particularly the library's Central Plant: heating and cooling systems, air handlers, and associated electrical panels.

Rice wrote that the boiler is original to the 1968 building. The cooling system has outlasted its life by many years, is undersized, uses a refrigerant that has been sunset by the EPA, and has a design flaw that has led to expensive repair work over the years. The design flaw has meant the cooling system has operated at half capacity for the last two summers. Additionally, the system, is inefficient and costs the library more than \$120,000 annually in heating/cooling bills.

Rice wrote that there was an "urgent need" to move forward with this project.

The current cooling system condensers are located in the south staff parking lot of the library. The library plans to relocate these condensers within the parking lot to eliminate the types of repairs required over the years due to the present location. The redesign of the parking lot also would allow the installation of a small pavilion, which will be used for staff breaks and also would serve as an outdoor programming space for small groups.

Rice wrote that Library staff has worked well with the City over the past several months to ensure the design of the parking lot meets both the City's interests and those of the library. All variance requests were passed at the June 25 meeting of the Board of Zoning Appeals.

In her letter to the Council, **Rice** concluded, "The Public Library is a cornerstone in our community and vital to the health and well-being of our City. We are unique in that we serve all members of our diverse population, offering our services with dignity while prioritizing equity, all at little cost. Our resources support the pleasure, professional, educational, and emotional needs of all who seek them.

"We hope you value the public library as a community asset and will lend your support to ensure the Goshen Public Library building remains functional and at the heart of our vibrant community for many more years."



SUMMARY OF JULY 8, 2024 COUNCIL CONSIDERATION & APPROVAL OF RESOLUTION 2024-13:

Mayor Leichty invited a presentation from **Library Director Ann-Margaret Rice**. She mentioned the written information provided to the Council and said information would be provided tonight by **Antone Sgro, an architect with Ratio Architects, Lisa Huntington, CPA, a Manager with Baker Tilly Municipal Advisers, and Thomas Everett, an attorney and associate with Barnes & Thornburg.**

Rice said that since the bond proposal has been pending there have been no public comments received by the library. She thanked Councilors for their consideration and added, "We value our community partnership with the City of Goshen, and we wish to continue to serve by ensuring that our building is functional and efficient for many more years to come."

Antone Sgro, an architect with Ratio Architects, provided an overview of the project and the proposed bond issue using a 9-slide PowerPoint presentation (EXHIBIT #3). Key points in his presentation:

- The project would replace the outdated building infrastructure, reduce utility bills and improve energy efficiency.
- The original building opened in 1968 and a renovation/addition was completed in 1993.
- The boiler is original (1968) and the chiller is running at 50% capacity.
- The project would improve vehicular flow in the south parking lot and remove the ability for vehicles to drive over the HVAC chiller underground piping.
- The project also would create more usable outdoor space for staff and library patrons.
- The building's chiller is located in the middle island of a parking lot and the piping has to travel under the parking area as well as the drive aisle to get into the building and this has resulted in excessive maintenance, some leaks within the piping due to the weight of vehicles, such as the trash truck, driving over that on a regular basis.
- The library spends about \$120,000 per year on utility bills, including gas and electric and a new boiler and chiller would be expected to more energy efficient and reduce utility bills by 55 percent.
- The library has about 106 parking spaces to the north and 20 parking spaces to the south.
- The project would involve reducing the number of parking spaces in the south parking lot to 12, adding a two-way entry and exit, moving the chiller pad closer to the main building and out of the parking lot, and adding an outdoor covered pavilion and outdoor public swing.
- The library hopes to receive bids for the project in August, award a bid at the Aug. 20 meeting of the library board and begin construction in late August, with completion in 12-14 months.

Lisa Huntington, CPA, a Manager with Baker Tilly Municipal Advisers, provided an overview of the financing of the project. Key points in her presentation.

- The library's general obligation bonding capacity is tied directly to the net assess value of the library district, which is 2% of one-third of the net assessed value, less any outstanding general obligation debt.
- As of today, the library has no outstanding debt.
- General obligation debt is issued directly in the name of the library and it doesn't affect any other unit's capacity to issue debt.



- In particular, the library's general obligation debt will not affect the City's capacity to issue general obligation or any other type of debt for the future.
- The library's estimated borrowing amount is \$3.99 million with \$3.8 million available for the project.
- The library will need to deduct the cost of the issuance and other fees associated with issuing the bonds.
- The assumed repayment term is about 8.5 years, with estimated interest expenses of \$1,070,000.
- Baker Tilly estimates that in 2025, the library will have a debt service fund tax rate of about 2 cents and then in 2026, it will rise to about 5 cents.
- The tax rate will be "layered in" to allow some mitigation instead of having a large tax rate increase at one time.
- Baker Tilly is using "very conservative estimates" here – interest rates of 5.5 percent.
- Baker Tilly recently issued bonds for about the same amount at about 4.5 percent.
- The estimated debt service tax rate is tied to the 2024 net assessed value of the library, so if that increases, the tax rate will decrease a little bit.
- In 2025, there would be a smaller amount of debt service increase than for 2026, and 2027, and then it would go back down in 2028.
- Debt is structured in that way in case the library might have other projects that it would need to address; there would be room to do so without having to impact the tax rate.
- The median home value of a home in Goshen is \$163,700 and a 2 cent impact on an annual basis for that taxpayer would be about \$15.
- When the impact rises to 5 cents in 2026, that taxpayer would see an increase in his/her property tax levy of about \$37.60, assuming no growth in that assessed value.
- Baker Tilly also estimated the estimated circuit breaker tax impacts on the library, Elkhart County, Elkhart Township, Goshen Community Schools and the City of Goshen.
- The 2025 estimates take into consideration the debt that the library wants to issue as well as increases in levies from the growth quotient in other units overlapping the library.
- For the library, Baker Tilly estimates that this debt will increase the circuit breaker tax credit for the library to a little over \$109,000.
- The circuit breaker tax credit impact on the City of Goshen would be about \$120,000 in 2025 and increasing in 2026 when the five cent level is reached.
- Although there are many variables, the impact may rise to \$300,000 in 2026.

Mayor Leichy and **Council President Weddell** asked follow-up questions about the impact of the bond on City property owners as well the projected impact on the library.

Thomas Everett, an attorney and associate with Barnes & Thornburg, briefly described the resolution before Councilors tonight that would approve the issuance of bonds to pay for the library project.

At its June 18 meeting, **Everett** said the library board authorized the issuance of the bonds of the library in an amount not to exceed \$3,990,000 at an interest rate not to exceed 5.5 percent, and for a maximum term of no longer than 10 years. The bonds would be paid by property taxes on all taxable property within the public library district. He said these bonds would not be a debt or general obligation of the City in any way, but only of the library.



Everett said these bonds do not obligate the City or impact the City's debt limit or taxing authority. Procedurally, he said Indiana statute requires that the Common Council, as the library's fiscal body, approve the issuance of the bonds of the library because the Library board is appointed rather than elected. So, while the Common Council is being asked to approve these bond, **Everett** said these bonds will not be an obligation of the City. And tonight's resolution also would approve the appropriation of the proceeds of the bonds. **Everett** said if the Council adopted this resolution, the library would proceed with the public sale of the bonds, including publishing a notice of intent to sell bonds later this month, and the public sale of the bonds was scheduled to occur in August. After the sale, the library will award the bonds to the bidder that has the lowest interest cost on the day of the sale.

Following the presentation, **Councilor Peel** asked **Library Director Rice** about the impact of the project on parking. She thanked Rice for discussing the proposal with Councilors.

Council President Weddell noted that the library serves as a cooling center for people during hot weather, but can't do so as well when the chiller isn't working. **Rice** said the library also serves as a warming center during the winter.

Councilor Riegsecker said he analyzed some residential tax records and had trouble finding a residential property owner who would be affected by increased taxes caused by this project.

Council President Weddell said while the City could eventually lose some revenue from this bond issuance, that is the way the system works. He also said there is no question this project is necessary. The Council President described the library as "a quality of life entity in the City."

Mayor Leichty responded that the library is also an important social service entity. She added, "I appreciate what you had to say, **Councilor Weddell**, and I'm glad that we're having a frank discussion, too, about the impact that it will have on the City for both this bond and for the pool bond as well."

The Mayor continued:

"The City should be well positioned to be able to absorb this. We budget very, very conservatively, and our cash balances have continued to increase because we're very judicious with our spending but we certainly will need to be paying all the more attention to that budget and be even more conservative with our numbers in the coming years as we're taking on some of this and will be impacted by this additional debt in relationship to the library and then as we're contemplating other projects."

At 7:13 p.m., Mayor Leichty asked if there were any questions or comments about Resolution 2024-13 from the audience or Councilors. There were none.

Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Resolution 2024-13, A Resolution of the Common Council of the City of Goshen, Indiana, approving the issuance of General Obligation Bonds by the Goshen Public Library regarding the Construction and Equipping of a certain Library Capital Project, by a 7-0 margin, with all Councilors voting yes, at 7:13 p.m.

Mayor Leichty thanked library team members for their work.



4) Ordinance 5186 - Vacation of Public Ways in the City of Goshen, Indiana (tabled from the June 10, 2024, Council meeting)

Mayor Leichty called for the introduction of Ordinance 5186, *Vacation of Public Ways in the City of Goshen, Indiana*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5186 by title only, which was done.

Weddell/Peel made a motion to approve Ordinance 5186 on First Reading.

BACKGROUND:

In a June 10, 2024 memorandum to the Council, City Planner Rhonda Yoder provided the background and context of Ordinance 5186.

Yoder wrote that 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 North First Street, with right of way 16.5 feet in width and approximately 276 feet in length, extending west of North First 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 North First Street, with the existing gravel to remain as their private driveway.

The Plan Commission reached the following outcome: Amended request forwarded to the Goshen Common Council with a favorable recommendation by a vote of 7-0.

Yoder made a presentation to the Council on June 10 as did the property owner, David A. Runge. However, the Council tabled the matter so the City Planning Office could address some unresolved issues.

In a July 8, 2024 memorandum to the Council, Yoder wrote that Ordinance 5186 was tabled at the June 10, 2024, Council meeting to provide time for review of the owner's proposal received June 10, 2024, to limit the utility easement to the first 125 feet of the vacated alley west of the North 1st Street right of way, and beyond the 125 foot easement to transfer all of the vacated alley to the north parcel.

Following the June 10 Council meeting, Yoder reported that the Planning Office contacted the entities who had identified facilities within the alley right of way, including Frontier, Comcast, NIPSCO, and City of Goshen, and all have agreed the proposed 125 foot easement would provide adequate access to their existing facilities.

An updated Ordinance 5186 (clean copy and red-line version) was provided to the Council that limits the utility easement to the first 125 feet of the vacated alley west of the North 1st Street right of way, and beyond the 125 foot easement transfers all of the vacated alley to the north parcel.

SUMMARY OF JULY 8, 2024 COUNCIL CONSIDERATION & APPROVAL OF ORDINANCE 5186:

Mayor Leichty asked for an update on Ordinance 5186, which was tabled from the June 10, 2024 meeting.

City Planner Rhonda Yoder provided an update as summarized in her July 8 memorandum to the Council. Yoder noted that she had submitted an updated version of Ordinance 5186, which she confirmed needed to be amended by the Council.

Council President Weddell made a motion to amend Ordinance 5186 as outlined by City Planner Yoder.

Councilor Nisley seconded the motion.

On a voice vote, Councilors unanimously voted to amend Ordinance 5186, *Vacation of Public Ways in the City of Goshen, Indiana*, to the new version by a 7-0 margin, with all Councilors voting yes, at 7:15 p.m.



Mayor Leichty asked if there were any audience comments on Ordinance 5186. There were none

Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Ordinance 5186, *Vacation of Public Ways in the City of Goshen, Indiana*, on First Reading by a 7-0 margin, with all Councilors voting yes, at 7:16 p.m.

Councilors gave unanimous consent to proceed with the Second Reading of Ordinance 5186.

Mayor Leichty called for the introduction on Second Reading of Ordinance 5186, *Vacation of Public Ways in the City of Goshen, Indiana*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5186 by title only, which was done.

Weddell/Schrock made a motion to approve Ordinance 5186 on First Reading.

At 7:17 p.m., Mayor Leichty invited Council or audience comments on Ordinance 5186. There were none.

Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Ordinance 5186, *Vacation of Public Ways in the City of Goshen, Indiana*, on Second Reading by a 7-0 margin, with all Councilors voting yes, at 7:17 p.m.

5) Ordinance 5191 - An Ordinance to Amend Ordinance 3384 and Ordinance 3970 of the Waterford Commons Planned Unit Development (PUD)

Mayor Leichty called for the introduction on First Reading of Ordinance 5191, *An Ordinance to Amend Ordinance 3384 and Ordinance 3970 of the Waterford Commons Planned Unit Development (PUD)*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5191 by title only, which was done.

Weddell/Riegsecker made a motion to approve Ordinance 5191 on First Reading.

BACKGROUND:

Ryan's Place, Inc., which provides grief support to children, teens, and families, is seeking to construct a building on property it owns on Regret Street for offices and open areas for programs and staff. This facility will consolidate its staff and programs into one location.

In a July 8, 2024 memorandum to the Common Council, **City Planner Rhonda Yoder** wrote that the Goshen Plan Commission met on June 18, 2024, in regular session and considered a request for a PUD major change for an alternative landscape plan to replace required full buffer yard landscaping with modified partial landscaping (west side) and parking lot screening and street trees (north side), to review required parking spaces per offices standard, and to allow a 10' west side driving aisle setback (where 25' is required), and PUD preliminary site plan approval for site development of an office use (Ryan's Place)



The subject property contains ± 9.6 acres and is generally located on the south side of Regent Street, east of Weymouth Boulevard, zoned Commercial B-4PUD, part of Waterford Commons PUD. The Plan Commission reached the following outcome:

Forwarded to the Goshen City Council with a favorable recommendation by a vote of 5-0.

Approval was based upon the following, with the following conditions:

1. The alternative landscape plan, parking based on office standards, and 10' west side driving aisle setback are consistent with the proposed office development and Waterford Commons PUD.
 2. The PUD major change approves the following:
 - An alternative landscape plan to replace required full buffer yard landscaping with modified partial landscaping (west side) and parking lot screening and street trees (north side);
 - Required parking spaces per offices standard when the primary use on site is an office use; and
 - A 10' west side driving aisle setback, using the existing constructed curb cut aligned with Weymouth Blvd, and with the reduced setback allowed no farther than 200' south of the Regent Street property line.
 3. The approved PUD preliminary site plan is *Ryan's Place PUD B-4, Proposed Site Plan, Sheet 1 of 1*, dated 6/04/2024, prepared by SAM.
 4. The approved alternative landscape plan is *Ryan's Place, Inc., Landscape Plan, Sheet L1.0*, dated 5.29.24, prepared by Lehman & Lehman.
 5. All landscaping on the approved alternative landscape plan shall be planted as part of the first phase of development, and is required to be maintained permanently.
 6. Parking areas added in future phases of development will be required to include a compact row of plant screening along the edge of the parking lot to screen headlights from adjacent residential land use.
 7. Lighting shall be directed down and away from adjacent residential properties, and shall prevent illumination, glare or reflection on adjacent properties, with a photometric plan required as part of the PUD final site plan submittal.
 8. A PUD final site plan, including a final landscape plan and photometric plan, shall be submitted and approved prior to a zoning clearance form/building permit being issued, and may be reviewed by Staff on behalf of Plan Commission.
 9. Site plan approval by Goshen City Engineering is required for site drainage, post construction, site utilities and right of- way access, as applicable, before a zoning clearance/building permit is issued.
- Prior to the Plan Commission meeting, the Planning office received three letters of support (enclosed) and one inquiry asking for more details about the request. There were no public comments at the Plan Commission meeting.

SUMMARY OF JULY 8, 2024 COUNCIL CONSIDERATION & APPROVAL OF ORDINANCE 5191:

Mayor Leichty asked City Planner Rhonda Yoder to explain Ordinance 5191.

Reading from her memorandum to the Council, **Yoder** summarized the request before the Council to amend Ordinance 3384 and Ordinance 3970 of the Waterford Commons Planned Unit Development.

Debra Hughes, a Civil Engineer with Surveying and Mapping LLC, Inc., said the facility would house Ryan's Place's counseling services, which would be consolidated at this location. They are currently spread among three locations in Goshen. She said the use of the property would be complementary to the existing residential property on all sides, and there are several letters of support from adjacent property owners.

Hughes invited the Council's support for Ordinance 5191.



At 7:19 p.m., Mayor Leichty asked if there were any questions or comments about Ordinance 5191 from Councilors or the audience. There were none.

Mayor Leichty asked if Councilors were ready to vote.

Council President Weddell said they were, but added, "Just a quick comment. I think this is a great, great thing that's happening out there. I'd heard a presentation about this, I think last year, and I'm excited it's finally in front of us. I wish them all the luck in getting it done quickly."

On a voice vote, Councilors unanimously passed Ordinance 5191, *An Ordinance to Amend Ordinance 3384 and Ordinance 3970 of the Waterford Commons Planned Unit Development (PUD)*, on First Reading by a 7-0 margin, with all Councilors voting yes, at 7:20 p.m.

Councilors gave unanimous consent to proceed with the Second Reading of Ordinance 5191.

Mayor Leichty called for the introduction on Second Reading of Ordinance 5191, *An Ordinance to Amend Ordinance 3384 and Ordinance 3970 of the Waterford Commons Planned Unit Development (PUD)*. Council President Weddell asked the Clerk-Treasurer to read Ordinance 5191 by title only, which was done.

Weddell/Peel moved to approve Ordinance 5191 on Second Reading.

Mayor Leichty invited further Council or audience comments on Ordinance 5191. There were none.

On a voice vote, Councilors unanimously passed Ordinance 5191, *An Ordinance to Amend Ordinance 3384 and Ordinance 3970 of the Waterford Commons Planned Unit Development (PUD)*, on Second Reading by a 7-0 margin, with all Councilors present voting yes, at 7:20p.m.

Mayor Leichty and Councilor Peel thanked and wished the applicants good luck with their program.

6) Resolution 2024-11: Declaration of Official Intent to Reimburse Expenditures (to finance construction of a municipal pool facility)

Mayor Leichty called for the introduction of Resolution 2024-11, *Declaration of Official Intent to Reimburse Expenditures (to finance construction of a municipal pool facility)*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2024-11 by title only, which was done.

Weddell/Lederach made a motion to approve Resolution 2024-11.

BACKGROUND:

The City of Goshen intends to finance the construction of a municipal pool facility, together with all necessary appurtenances, related improvements and equipment pursuant to an ordinance or resolution to be adopted by the City and the City expects to issue debt or enter into a lease financing for the project and to use the proceeds to reimburse or pay costs of the project.



Resolution 2024-11 would:

- Declare the City's official intent to construct the project and to reimburse itself for all or a portion of the costs of construction of the project with proceeds of debt to be incurred by or on behalf of the City in an amount not expected to exceed \$11,750,000.00 for purposes of paying or reimbursing costs of the Project, and to issue debt, or to approve debt issued by a leasing entity that will lease the project to the City.
- State that the City reasonably expects to reimburse itself from proceeds of obligations issued by or on behalf of the City for costs of the project paid prior to the issuance of the obligations.
- Be effective from and after passage and approval by the Mayor.

**SUMMARY OF JULY 8, 2024 COUNCIL CONSIDERATION & APPROVAL OF RESOLUTION 2024-11:
Mayor Leichty invited City Attorney Bodie Stegelmann to explain the background and rationale for Resolution 2024-11.**

Stegelmann said the resolution would allow for the reimbursement of expenses that the City incurs prior to the issuance of a bond issuance for the construction of a new municipal pool at Shanklin Park. He said the resolution also would authorize the bond proceeds to reimburse the City for those expenditures.

City Superintendent of Parks & Recreation Tanya Heyde said that besides the major construction costs, which are not expected to be paid prior to the issuance of bond, the City must pay contractor fees as well as preliminary demolition costs and other contractor costs before establishing a gross maximum price for the project.

At 7:23 p.m., Mayor Leichty invited Council or audience comments on Resolution 2024-11. There were none. Council President Weddell said Councilors were ready to vote.

On a voice vote, Councilors unanimously passed Resolution 2024-11, Declaration of Official Intent to Reimburse Expenditures (to finance construction of a municipal pool facility, by a 7-0 margin, with all Councilors voting yes, at 7:23 p.m.

7) Resolution 2024-12: Resolution of the Common Council of the City of Goshen, Indiana, Determining a Need for Project and Intent to Proceed, Authorizing Circulation of Petition of Taxpayers and Two Appraisals (for construction of a new municipal pool)

Mayor Leichty called for the introduction of Resolution 2024-12, *Resolution of the Common Council of the City of Goshen, Indiana, Determining a Need for Project and Intent to Proceed, Authorizing Circulation of Petition of Taxpayers and Two Appraisals (for construction of a new municipal pool)*. Council President Weddell asked the Clerk-Treasurer to read Resolution 2024-12 by title only, which was done.

Weddell/Nisley made a motion to approve Resolution 2024-12.

BACKGROUND:

The Common Council has investigated the need for funding the construction of a new municipal pool, together with all necessary appurtenances, related improvements and equipment.



By statute, the Goshen Municipal Building Corporation is required to own the real estate to be leased to the City, and the City is required to have the value of the land determined by two professional appraisers.

In addition, the Council has determined that it is in the best interest of the City and its residents to proceed with the pool project.

Resolution 2024-12 would establish that:

- The Council hereby determines, after investigation, that a need exists for the financing of the pool project and that the project cannot be financed from funds on hand available to the City, and that the Council proceed to take such steps as may be necessary to secure the financing and leasing of the project as provided by the Indiana Code, Title 36, Article 1, Chapter 10.
- Providing for the financing of the construction of the project by the Corporation and the leasing of same to the City is in the public interest of the citizens of the City and it is a proper public purpose for which the Council agrees to cooperate with the Corporation and to assist it in fulfilling the requirements of all agencies of the federal, state and City governments.
- The Council hereby further determines that, in order to move forward with the project, it intends to approve funding needed for the construction of the project and/or support other governmental bodies or departments of the City in funding and constructing the project.
- The Council hereby authorizes the circulation of the supporting petition of taxpayers requesting the acquisition, construction and leasing of the Project.
- The Council hereby ratifies the appointment of two independent appraisers to determine the fair market value of the real property upon which the Project is constructed.
- And this resolution shall be in full force and effect immediately upon its passage and approval by the Mayor.

SUMMARY OF JULY 8, 2024 COUNCIL CONSIDERATION & APPROVAL OF RESOLUTION 2024-12:

Mayor Leichty asked the City Attorney to explain the background and rationale for Resolution 2024-12.

City Attorney Stegelmann said the resolution would establish that there is a need for financing the pool project and that the manner of financing the project would be a transfer of the pool to a building corporation, which would then finance the project through bonds. He said the building corporation would then lease the property back to the City.

Stegelmann said this resolution would authorize that form of financing. It also would authorize the circulation of a supporting petition, with at least 50 signatures of taxpayers within the City that must be gathered in support of the project for it to move forward. He said the resolution also would authorize the appointment of two independent appraisers to determine the fair market value of the real property where the new pool would be constructed.

At 7:26 p.m., Mayor Leichty invited comments from Councilors or audience members on Resolution 2024-12. There were none.

Mayor Leichty asked if Councilors were ready to vote.

Council President Weddell said that by approving the two resolutions it appeared the Council was indicating a desire to move forward with the pool project. Still, he asked if there would be future votes that the Council would need to make to formalize the pool reconstruction decision.



Deputy Mayor Mark Brinson said there was a schedule of future decisions that would need to be made by the Council, adding, "This is just the very beginning to express intent, and then we start the ball rolling from there."

Council President Weddell said **Councilors were ready to vote.**

On a voice vote, Councilors unanimously passed Resolution 2024-12, Resolution of the Common Council of the City of Goshen, Indiana, Determining a Need for Project and Intent to Proceed, Authorizing Circulation of Petition of Taxpayers and Two Appraisals (for construction of a new municipal pool), by a 7-0 margin, with all Councilors voting yes, at 7:27 p.m.

Elected Official Reports:

Mayor Leichy asked **Councilors if they had any reports from the Boards and Commissions they serve on.**

Councilor Peel said the **City Community Relations Commission** would be meeting July 9 and walking about 2.5 miles on the northside of the City. She said Commissioners will be looking at blighted properties.

Mayor Leichy said Commissioners also will be talking about grant opportunities that are coming up related to blighted properties. She said the City is assessing where some focus areas might be and where there might be some opportunities in the community.

Councilor Peel said the group will meet at 6 p.m. Tuesday at the Chamberlain Elementary School parking lot and Councilors were invited to participate.

Council President Weddell said the **City Redevelopment Commission** also will meet July 9 and has a short agenda. He said there will be an update on the north half of the Hawks Building.

Council President Weddell said the Redevelopment Commission had a mediation session with the financial backer of the north half of the Hawks Building because there were some dues that weren't paid. He said one of the commission's biggest concerns was the property between the north half of the Hawks Building and the Woodworkers Guild. He said the commission's goal was to regain possession of that property so the City could control it to eventually develop a green space or park.

Mayor Leichy thanked the **Council President** for participating in the mediation.

Councilor Gerber thanked **Street Commissioner David Gibbs and the Street Department** for cleaning up fireworks debris on New Street. She relayed a complain about it and City crews quickly responded.

Council President Weddell thanked City employees for their good work and coordination of the **fireworks show at Black Squirrel Country Club, the First Friday Cruise-in and the kids triathlon.**

Councilor Riegsecker said his grandson participated in the **triathlon** and was featured in the Goshen News sports section. He said the event was well handled by the **Parks & Recreation Department**. He also thanked the sponsors.

Councilor Riegsecker said the **Elkhart County Fair** begins July 19 and continues through July 27.



Councilor Riegsecker asked that important matters be scheduled early during the July 22 Council meeting for those Councilors who might need to leave early to go to the fair.

Clerk-Treasurer Aguirre said the City is doing the best job it can in keeping residents informed about the annual closures for repairs of railroad crossings by Norfolk Southern, which unfortunately seems to coincide with the Elkhart County Fair. He said the City was doing a good job on communication.

Clerk-Treasurer Aguirre also acknowledged the Mayor's great email announcing the November **retirement of City Fire Chief Dan Sink**. He asked **Assistant Fire Chief of Operations Anthony Powell** to pass on to the Chief the congratulations of many City residents for his outstanding career and amazing contributions to the City of Goshen.

Councilor Nisley made a motion to adjourn the meeting. Councilor Peel seconded the motion. By a voice vote, Councilors unanimously approved the motion to adjourn the meeting.

Mayor Leichty adjourned the meeting at 7:32 p.m.

EXHIBIT #1: *The final revised version of Ordinance 5184, which was approved by the Council on July 8, 2024.*

EXHIBIT #2: *The final revised version of Ordinance 5192, which was approved by the Council on July 8, 2024.*

EXHIBIT #3: *A 9-slide PowerPoint presentation by Antone Sgro, an architect with Ratio Architects, which was discussed with Common Council members during consideration of agenda item #3, Resolution 2024-13 Resolution of the Common Council of the City of Goshen, Indiana, approving the issuance of General Obligation Bonds by the Goshen Public Library regarding the Construction and Equipping of a certain Library Capital Project.*

APPROVED:

Gina Leichty, Mayor of Goshen

ATTEST:

Richard R. Aguirre, City Clerk-Treasurer

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) Non-Conforming 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



CITY OF GOSHEN LEGAL DEPARTMENT

City Annex
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August 12, 2024

To: Goshen Common Council

From: Shannon Marks, Legal Compliance Administrator

Subject: Resolution 2024-14, Interlocal Agreement with the County of Elkhart for the Establishment of the Marion Branch Quiet Zone

The Common Council previously approved in April the terms and conditions of the Interlocal Agreement with the County for the establishment of the Marion Branch Quiet Zone. Under the agreement, the County is approving the establishment of the new quiet zone and delegating to the City the authority to take all such actions as required by the federal regulations to establish the new quiet zone. This specifically includes the County Road 42 grade crossing as well as at the location of the closed County Road 40 crossing that are outside the city limits. Goshen Redevelopment Commission is agreeing to provide the funding for the implementation of one or more safety measures required for the establishment of the new quiet zone.

The City and County have negotiated revisions to the agreement, one being the establishment of a joint board to facilitate decision making under for the project. The City and the County will each appoint two individuals to this joint board. Thus, it is necessary for the Common Council to approve the terms and conditions of the revised Interlocal Agreement.

**GOSHEN COMMON COUNCIL
RESOLUTION 2024-14**

**Interlocal Agreement
with the County of Elkhart
for the Establishment of the Marion Branch Quiet Zone**

WHEREAS the City of Goshen and the County of Elkhart have negotiated an interlocal agreement to coordinate the establishment of a railroad quiet zone on the Marion Branch from Washington Street to County Road 42.

WHEREAS the Common Council previously approved the terms and conditions of the Interlocal Agreement by Resolution 2024-09.

WHEREAS revisions were subsequently made to the interlocal agreement thereby necessitating the Common Council's approval of the revised interlocal agreement.

WHEREAS pursuant to I.C. § 36-1-7 et seq., a power that may be exercised by one governmental entity may be exercised by one entity on behalf of another entity if the entities enter into a written agreement.

NOW, THEREFORE, BE IT RESOLVED that the Goshen Common Council approves the terms and conditions of the Interlocal Agreement for the Establishment of the Marion Branch Quiet Zone with the County of Elkhart, a copy of which is attached to and made a part of this resolution. The attached Interlocal Agreement replaces the previous version attached to Resolution 2024-09.

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

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

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

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on August _____, 2024.

Gina M. Leichty, Mayor

**INTERLOCAL AGREEMENT
BETWEEN CITY OF GOSHEN AND COUNTY OF ELKHART
FOR THE ESTABLISHMENT OF THE MARION BRANCH QUIET ZONE**

THIS INTERLOCAL AGREEMENT is made and entered into on _____, 2024, by and between City of Goshen, Indiana (“City”), by and through the Goshen Board of Public Works and Safety and the Goshen Redevelopment Commission, and with the approval of the Goshen Common Council; and County of Elkhart, Indiana (“County”), by and through the Board of Commissioners of the County of Elkhart, and with the approval of the Elkhart County Council.

WITNESSETH:

WHEREAS, City is in the process of making application to the Federal Railroad Administration to establish a new railroad quiet zone on the Marion Branch from Washington Street to County Road 42, hereinafter referred to as the “Marion Branch Quiet Zone.”

WHEREAS, since the proposed new quiet zone includes the public highway-rail grade crossings which are under the authority and control of County and public highway-rail grade crossings which are under the authority of City, in accordance with 49 C.F.R. § 222.37(a), both City and County must agree to the establishment of the quiet zone, and County has chosen to delegate to City the authority to take such actions as are required by 49 C.F.R. pt. 222 to establish the Marion Branch Quiet Zone.

WHEREAS, such actions required to establish and maintain the Marion Branch Quiet Zone by City will include the implementation and maintenance of one or more safety measures at each grade crossing within the new quiet zone.

WHEREAS, I.C. § 36-1-7 et seq. provides that a power that may be exercised by a political subdivision and by another governmental entity may be exercised by one entity on behalf of the other entity if the entities enter into a written agreement under I.C. § 36-1-7-3 and I.C. § 36-1-7-9.

NOW, THEREFORE, in consideration of the foregoing and the promises and commitments herein contained, City and County agree as follows:

Section 1. PURPOSE; DELEGATION OF AUTHORITY; CITY RESPONSIBILITIES.

- (A) This purpose of this agreement is to coordinate the establishment and operation of the Marion Branch Quiet Zone, including the construction, maintenance, repair, replacement, and funding required for necessary railroad crossing safety measures and improvements at each grade crossing within the Marion Branch Quiet Zone, hereinafter referred to as “the Project.”

- (B) County agrees to the establishment of the Marion Branch Quiet Zone.
- (C) County delegates to City the authority to take all such actions as are required by 49 C.F.R. Part 222 to establish and maintain the Marion Branch Quiet Zone, including the implementation of all needed safety measures and improvements at the public highway-rail grade crossings at County Road 42 (DOT# 533515K) and the location of the closed public highway-rail grade crossing at County Road 40 (DOT# 533514D) (collectively the “Covered Crossings”).
- (D) City accepts the delegation of authority from County to take all such actions as required by 49 C.F.R. Part 222 to establish and maintain the Marion Branch Quiet Zone, including the implementation of all needed safety measures and improvements at the Covered Crossings.
- (E) The public highway-rail grade crossing at County Road 40 (DOT# 533514D) has been permanently closed to highway traffic as a companion project to the construction of the Waterford Mills Parkway overpass. No further railroad crossing safety measures and improvements are anticipated to be required at this location. Nevertheless, City agrees to meet the legal requirements and the Federal Railroad Administration’s guidance for construction and completion of the needed safety measures and improvements at the closed public highway-rail grade crossing at County Road 40.
- (F) The existing crossing at County Road 42 (DOT# 533515K) has one (1) mainline track with one (1) travel lane in each direction. The existing approach pavement and crossing surface is in good condition. The existing crossing has an active warning system consisting of post mounted flashing lights. Due to the quiet zone requirements, City agrees to upgrade the active warning devices to include flashing red lights with gates and constant warning time. In addition to upgrading the active warning devices, 100 feet of channelization devices will be added to both approaches while the pavement markings and signage will be updated to meet MUTCD requirements within a quiet zone. The existing crossing and proposed safety measures and improvements to be installed are depicted in Exhibit A. City agrees to meet the legal requirements and the Federal Railroad Administration’s guidance for construction and completion of the needed safety measures and improvements at the public highway-rail grade crossing at County Road 42.
- (G) City agrees to maintain all safety measures and improvements required by 49 C.F.R. Part 222 for the Covered Crossings as long as the Marion Branch Quiet Zone exists.
- (H) City assumes full responsibility for the Project as long as the Marion Branch Quiet Zone exists. County has no obligation or responsibility for the Project.

Section 2. DURATION.

- (A) This agreement shall be effective upon its execution by the parties and continue for a period of four (4) years. This this agreement shall automatically renew for additional four-year periods, unless one party gives the other party 90 days’ written notice of its intent to terminate the agreement prior to expiration of each four (4) year term.
- (B) This agreement shall automatically terminate if the Marion Branch Quiet Zone established as part of the Project ceases to exist.
- (C) This agreement shall automatically terminate upon the effective date of the City’s annexation of the real estate that includes the right-of-way that includes both of the Covered Crossings.

Section 3. ADMINISTRATION.

City shall serve as the lead agency for the Project, and assumes and agrees to be responsible for the overall administration of the Project, including:

- (A) Filing application for the establishment of a new quiet zone to the Federal Railroad Administration in accordance with 49 C.F.R. § 222.39(b).
- (B) Providing all required written notifications of the intent to create, and if approved, the establishment of the new quiet zone in accordance with 49 C.F.R. § 222.43.
- (C) Providing County with all necessary information and documentation for County to furnish any certifications required of County under Federal regulations and allowing County adequate time to review.
- (D) Design engineering services for the railroad crossing improvements to be constructed for the Project.
- (E) Bidding the construction of the railroad crossing improvements required for the Project.
- (F) Obtaining all necessary permits and approvals required to construct the railroad crossing improvements required for the Project.
- (G) Administering all contract(s) for the construction of the railroad crossing improvements required for the Project, including inspection services.
- (H) Maintaining all documents, contracts, notices or other records required to be maintained in connection with this Project.
- (I) Providing such other general administrative services as are necessary for the Project.
- (J) In order to facilitate decision-making for the Project, a joint board is hereby established which will consist of four (4) individuals. One (1) individual will be appointed by the City's Redevelopment Commission. One (1) individual will be appointed by the City's Mayor. One (1) individual will be appointed by the Board of Commissioners of the County. One (1) individual will be appointed by the County Highway Engineer. These individuals will be subject to removal and replacement by the appointing authority at will. The joint board will review any questions or issues with respect to the Project which are not addressed by this agreement. The final decisions on such matters with respect to the Project will be made by the joint board by a majority vote. Where the decision cannot be made by the joint board, the question or issue will be referred to the City and the County for resolution. Any real or personal property acquired, held, or disposed of as part of the Project shall be acquired, held, or disposed of by the party that originally acquired the property.

Section 4. FUNDING.

- (A) City shall provide all funding for the Project. City's Redevelopment Commission agrees to provide all funding required for the establishment of the new quiet zone, including funding the costs incurred by County in furnishing any certification required by Federal law and the costs for implementing of one or more safety measures and improvements required at each grade crossing within the new quiet zone.
- (B) City's Clerk-Treasurer will receive, disburse and account for all monies received and/or expended in the course of carrying out the obligations as set forth in this agreement.

Section 5. REAL ESTATE AND PERSONAL PROPERTY.

- (A) It is not anticipated that additional real estate will be needed to implement the Project. In the event it is necessary to acquire additional real estate for the Project, City shall fund the acquisition of the real estate and shall dedicate the real estate as public right-of-way.
- (B) As long as the Marion Branch Quiet Zone is in effect, the safety measures and improvements required at each grade crossing to continue the quiet zone shall be City's responsibility for operation and maintenance. County shall have no duties, liabilities, or obligations to operate, maintain, or improve the grade crossings while the Marion Branch Quiet Zone is in effect. In the event the quiet zone status ceases to exist or is withdrawn for all or a portion of the Marion Branch Quiet Zone that includes the public highway-rail grade crossing at either or both of the Covered Crossings, then the duty to maintain and operate the safety measures and improvements for each respective location withdrawn shall revert to the party with jurisdiction over that portion of the former quiet zone. City shall indemnify County for any costs incurred by County associated with the work required to place such reverted grade crossings in normal operating condition and compliant with all applicable laws existing at the time of reversion without the quiet zone safety measures and improvements. This subsection survives the termination of this agreement.
- (C) In the event that City annexes the real estate that includes the right-of-way that consists of the public highway-rail grade crossings at either or both of the Covered Crossings, then the safety measures and improvements for the respective location that is annexed shall be operated, maintained, and improved by City upon the effective date of annexation for the respective location. This subsection survives the termination of this agreement.
- (D) In the event that the duty to maintain, operate, or improve either or both of the Covered Crossings is transferred to or assumed by County for any reason while the Marion Branch Quiet Zone exists, City shall indemnify County for any costs incurred by the County in performing such duties with respect to the Covered Crossings that remain within the Marion Branch Quiet Zone.
- (E) Upon termination of this agreement, City shall indemnify County for any costs incurred by the County associated with work performed on the Covered Crossings required to comply with the Marion Branch Quiet Zone if required to exist or to return the Covered Crossings to normal, operating condition and compliant with all applicable laws as they exist at the time of termination if the Marion Branch Quiet Zone is no longer required to exist.

Section 6. LIMITATIONS OF LIABILITY.

City acknowledges that County shall not be liable to City for completion of or the failure to complete any activities associated with the Project, and City agrees to defend, indemnify, and hold harmless County and its agents, officers, and employees from all claims, demands, actions, and causes of action of any nature whatsoever arising from the Project, from all judgments therefore, and for all expenses in defending or appealing any such claims or judgments, including without limitation court costs, attorney's fees, and other expenses.

Section 7. NON-DISCRIMINATION.

Pursuant to I.C. § 22-9-1-10, the parties to this agreement each agree not to discriminate against any employee or applicant for employment to be employed in the performance of any work under this agreement, with respect to the employee's or applicant's hire, tenure, terms, conditions or privileges of employment or any matter directly or indirectly related to employment, because of an individual's race,

religion, color, sex, disability, national origin, or ancestry. Breach of this covenant may be regarded as a material breach of this agreement.

Section 8. EMPLOYMENT ELIGIBILITY VERIFICATION.

Pursuant to I.C. § 22-5-1.7 et seq., the parties to this agreement each agree to enroll in and verify the work eligibility status of all newly hired employees of each respective party through the E-Verify program as defined by I.C. § 22-5-1.7-3; provided, however, the parties are not required to verify the work eligibility status of all newly hired employees after the date of the agreement through the E-Verify Program if the E-Verify Program no longer exists.

Each party to this agreement shall not knowingly employ or contract with an unauthorized alien, or retain an employee or continue to contract with a person that the respective party subsequently learns is an unauthorized alien.

Section 9. ANTI-NEPOTISM.

The parties to this agreement are each aware of the provisions of I.C. § 36-1-21 et seq. with respect to anti-nepotism in contractual relationships with government entities, and agree to comply with such statute.

Section 10. SUPPLEMENTAL DOCUMENTS.

City and County agree to execute any and all supplemental documents and to take any and all supplemental steps as are reasonable and appropriate to accomplish the purposes and provisions of this agreement.

Section 11. NOTICE

Any notice required or permitted under this agreement shall be given to the parties at their respective mailing addresses provided below by deposit in the United States mail, with proper postage affixed thereto, and which notice shall be effective three (3) days after the date of mailing:

City: City of Goshen, Indiana
Attention: Gina M. Leichty, Mayor
202 South Fifth Street
Goshen, Indiana 46528

with a copy to:

City of Goshen Legal Department
Attention: Bodie Stegelmann, City Attorney
204 East Jefferson Street, Suite 2
Goshen, Indiana 46528

County: County of Elkhart, Indiana
Attention: Jeff Taylor, County Administrator
117 North Second Street
Goshen, Indiana 46526

with a copy to:

Craig Buche, Elkhart County Attorney
Yoder, Ainlay, Ulmer & Buckingham, LLP
130 North Main Street
Goshen, Indiana 46526

The parties may change their respective mailing addresses by providing written notice of the new address in accordance with the terms and provisions of this paragraph.

Section 12. AMENDMENT.

This agreement may be amended only by the mutual written consent of the parties, by the adoption of a resolution approving said amendment as provided by law, and by the execution of an amendment by the parties.

Section 13. SEVERABILITY.

If any provision, covenant, agreement or portion of this agreement or its application to any person, entity or property is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants, agreements, or portions of this agreement, and to that end, any provisions, covenants, agreements or portions of this agreement are declared to be severable.

Section 14. INDIANA LAW.

This agreement shall be governed by and construed in accordance with the laws of the State of Indiana.

Section 15. BINDING EFFECT.

This agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and assigns; provided, however, that this agreement may not be assigned without the express written consent of the non-assigning party.

Section 16. ENTIRE AGREEMENT.

Except as otherwise expressly provided, this agreement supersedes all prior agreements, negotiations, and discussions relative to the subject matter and is a full integration of the agreement of the parties.

Section 17. FILING REQUIREMENTS.

Within thirty (30) days after the approval and execution of this agreement, City shall have this agreement recorded and filed with the appropriate governmental offices and agencies as required by Indiana law.

Section 18. COUNTERPARTS.

This agreement may be executed in multiple counterparts and with multiple, but separate signature pages with the multiple counterparts and multiple and separate signature pages constituting one single and unified agreement when combined.

IN WITNESS WHEREOF, the parties have duly executed this agreement pursuant to all requisite authorizations as of the dates set forth below.

[Signature pages follow.]

The Goshen Board of Public Works and Safety of the City of Goshen, Indiana, hereby executes the foregoing Interlocal Agreement on _____, 2024.

Goshen Board of Public Works and Safety
City of Goshen, Indiana

Gina M. Leichty, Mayor and Member

Mary Nichols, Member

Orv Myers, Member

Michael A. Landis, Member

Barb Swartley, Member

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, personally appeared Gina M. Leichty, Mayor and Member, Mary Nichols, Member, Orv Myers, Member, Michael A. Landis, Member, and Barb Swartley, Member of the Goshen Board of Public Works and Safety of the City of Goshen, Indiana, and acknowledged the execution of the foregoing Interlocal Agreement on _____, 2024.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

The Goshen Redevelopment Commission of the City of Goshen, Indiana, hereby executes the foregoing Interlocal Agreement on _____, 2024.

Goshen Redevelopment Commission
City of Goshen, Indiana

Brian Garber, President

Jonathan Graber, Secretary

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, personally appeared Brian Garber, President and Jonathan Graber, Secretary of the Goshen Redevelopment Commission of the City of Goshen, Indiana, and acknowledged the execution of the foregoing Interlocal Agreement on _____, 2024.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

APPROVAL

The Goshen Common Council of the City of Goshen, Indiana hereby approves of the foregoing Interlocal Agreement on _____, 2024.

Goshen Common Council
City of Goshen, Indiana

Gina M. Leichthy, Mayor and Presiding Officer

Richard M. Aguirre, Clerk-Treasurer

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, personally appeared Gina M. Leichthy, Mayor and Presiding Officer, and Richard M. Aguirre, Clerk Treasurer, on behalf of the Goshen Common Council of the City of Goshen, Indiana, and acknowledged the execution of the Approval of the foregoing Interlocal Agreement on _____, 2024.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

The Board of Commissioners of the County of Elkhart, on behalf of the County of Elkhart, Indiana, hereby executes the foregoing Interlocal Agreement on _____, 2024.

Board of Commissioners of the County of Elkhart
County of Elkhart, Indiana

Bob Barnes, Commissioner

Bradley D. Rogers, Commissioner

Suzanne Weirick, Commissioner

Attest:

Patricia A. Pickens, Auditor
County of Elkhart, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

Before me, the undersigned Notary Public, personally appeared Bob Barnes, Commissioner, Bradley D. Rogers, Commissioner, and Suzanne Weirick, Commissioner of the Board of Commissioners of the County of Elkhart, and Patricia A. Pickens, Auditor of the County of Elkhart, Indiana, on behalf of the County of Elkhart, Indiana, and acknowledged the execution of the foregoing Interlocal Agreement on _____, 2024.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

APPROVAL

The Elkhart County Council of the County of Elkhart, Indiana hereby approves of the foregoing Interlocal Agreement on _____, 2024.

Elkhart County Council
County of Elkhart, Indiana

By: _____
Printed: _____
President

Attest:

Patricia A. Pickens, Auditor
County of Elkhart, Indiana

STATE OF INDIANA)
) SS:
COUNTY OF ELKHART)

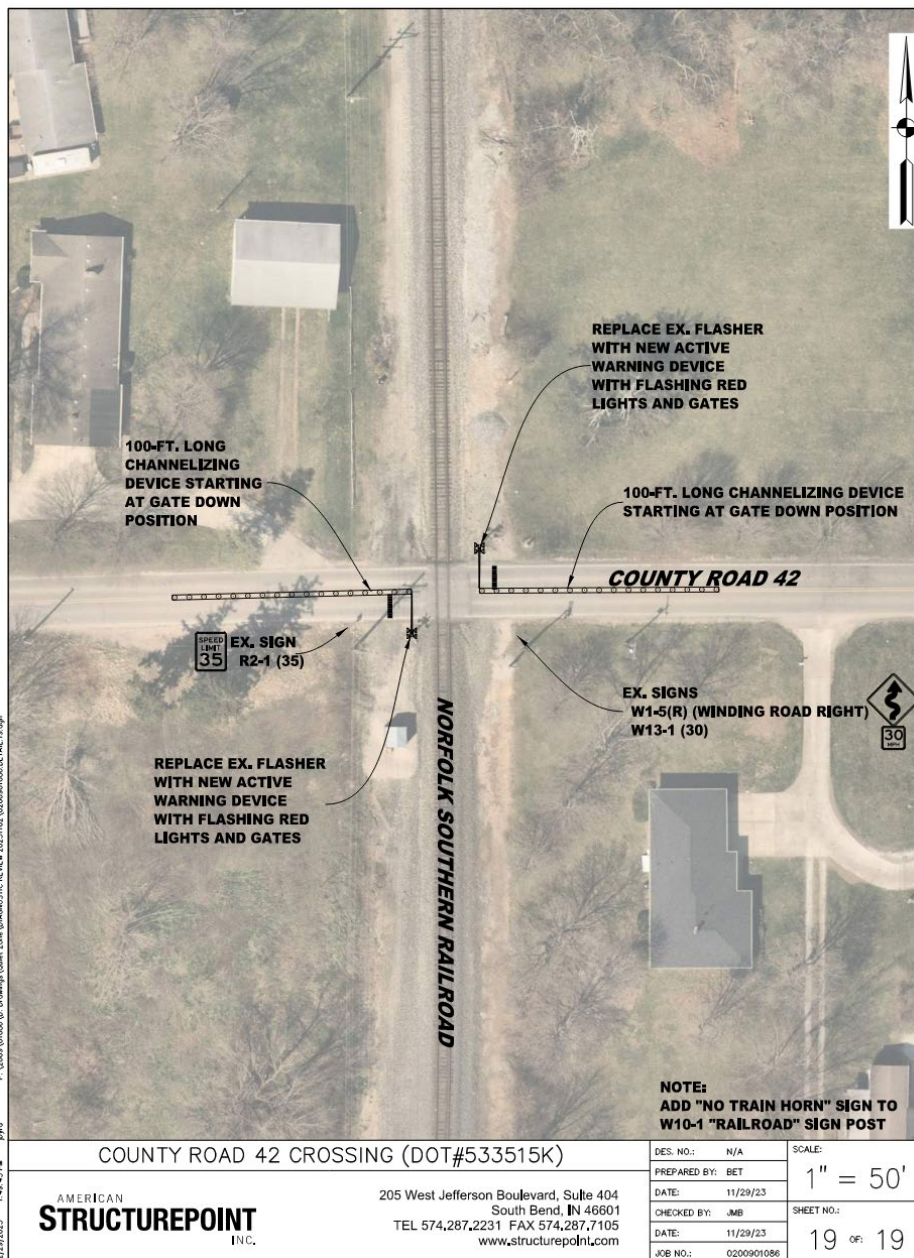
Before me, the undersigned Notary Public, personally appeared _____, President of the Elkhart County Council, and Patricia A. Pickens, Auditor of the County of Elkhart, Indiana, on behalf of the County of Elkhart, Indiana, and acknowledged the execution of the Approval of the foregoing Interlocal Agreement on _____, 2024.

Notary Public
Printed: _____
County of residence: _____
Commission number: _____
My commission expires: _____

This instrument was prepared by Bodie J. Stegelmann, Attorney No. 18180-20, City Attorney, City of Goshen, Indiana, Goshen Legal Department, 204 East Jefferson Street, Suite 2, Goshen, Indiana 46528.

I affirm, under the penalties of perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law (Bodie J. Stegelmann).

Exhibit A





**Department of Community Development
CITY OF GOSHEN**

204 East Jefferson Street, Suite 2 • Goshen, IN 46528-3405

Phone (574) 537-3824 • Fax (574) 533-8626 • TDD (574) 534-3185
communitydevelopment@goshencity.com • www.goshenindiana.org

Memorandum

TO: City Council

FROM: Becky Hutsell, Redevelopment Director

RE: **Request for an Exemption to Ordinance No. 4290 for 2614 S. Main Street**

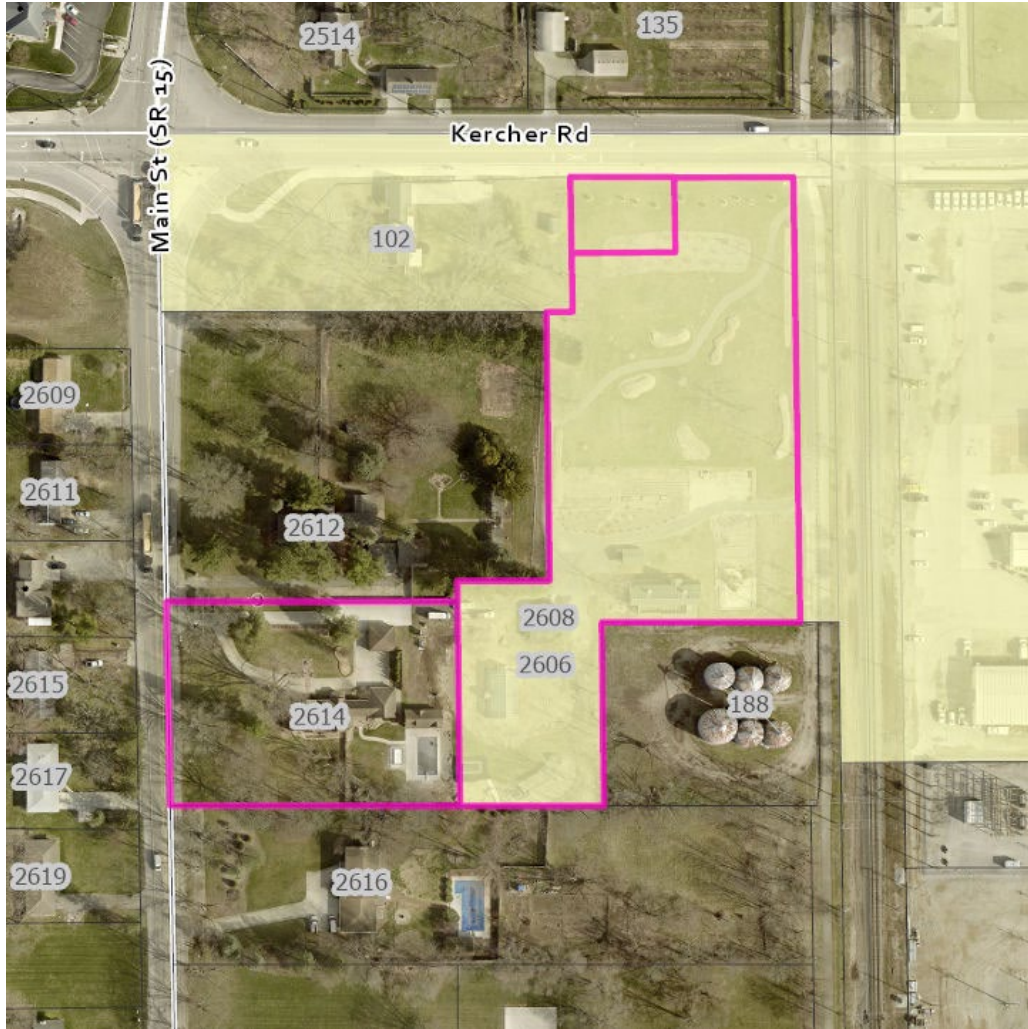
DATE: August 12, 2024

Redevelopment is requesting an exemption to the requirements of Ordinance No. 4290 on behalf of the property owners at 2614 S. Main Street. More specifically, the request is for an exception to Section 1E and 1F and only on a temporary basis. Section 1E states that each building on a single zoning lot is required to connect to a public main. Section 1F states that the Board of Public Works and Safety may approve, in writing, water service to a second building on a single zoning lot to be connected through the primary building's water service if the Board of public Works & Safety finds that the two buildings have the same ownership and that one building is subordinate and serves the principal building on the zoning lot.

Len & Marcia Morris own 2614 S. Main Street and also own 2604, 2606 and 2608 S. Main Street. They have gone through the process of rezoning all of the parcels to be Residential R-1 and, as part of the process, agreed to combine all parcels into one single zoning lot. As they attempted to do so, the Auditor's Office indicated that the merge is not currently possible as the Southeast Consolidated TIF encompasses all of the parcels except for 2614 S. Main Street. Redevelopment is in agreement that the TIF does not need to include the remaining parcels now that the Kercher Road project is complete and intends to modify the TIF to remove them. The process, however, will take several months. The request before the Council is to grant an exemption to allow for a water line to be extended from the residence to the gardener's cottage on the property. The exemption is necessary as the cottage is on a separate parcel from the residence.

Once the TIF is amended to remove the parcels, the property owners agree to follow through with the combination of all the parcels into one single zoning lot and, at that time, the official approval for the subordinate water line can be granted by the Board of Public Works & Safety. The approval of the exemption at this time allows for the property owners to complete the work while the City works through the process of amending the TIF.

Requested Motion: Approval of an exemption request to Ordinance No. 4290, Sections 1E and 1F, to allow for a water line to be constructed as a subordinate line from the residence to the garden's cottage when not located on a single zoning lot at 2614 S. Main Street





Richard Aguirre, City Clerk-Treasurer
CITY OF GOSHEN

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

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

richardaguirre@goshencity.com • www.goshenindiana.org

TO: Goshen City Common Council, Mayor Gina Leichty

FROM: Richard Aguirre, Clerk-Treasurer; Jeffery Weaver, Deputy Clerk-Treasurer

RE: Ordinance 5193: Establishing a USDA Forest Service Grant Fund

DATE: August 12, 2024

Thank you for considering the attached ordinance, Ordinance 5193: Establishing a USDA Forest Service Grant Fund. This fund will be established in order to record receipts and expenditures related to a \$1,000,000 grant the Environmental Resilience Department was awarded late last year.

Revenues into the Fund will only be from the grant, but the expenses will include a wide range of costs, all of which relate to the grant, including:

- Expanding regional inventories of trees and plants to support urban forestry and food forests,
- Deliver public and business education programs on arboriculture training topics,
- Educate on the positive health aspects of trees, and
- Provide classes focused on growing, preparing and enjoying fresh locally grown foods.

This Fund will then close once the project is complete and all grant funds are spent.

Ordinance 5193

**Establishing a USDA Forest Service Grant Fund
(Grant Number SN1FLHNTQJZ324-CA-11132544-010)**

WHEREAS, the Environmental Resilience Department was awarded a grant from the USDA to promote urban forestry and provide education on the growing and maintenance of such.

WHEREAS, it is necessary to establish a separate fund for all receipts and disbursements of the USDA Forest Service Grant.

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

- (1) Fund Established. A USDA Forest Service Grant Fund is established.
- (2) Source of Funds. The sources of the USDA Forest Service Grant Fund shall be from the United States Department of Agriculture.
- (3) Use of Funds. The Fund shall be used to pay expenses related to the USDA Forest Service Grant, including, but not limited to:
 - (a) Resources to establish arboriculture employment training programs.
 - (b) Resources to expand regional tree inventories and promote urban forestry.
 - (c) Training and education programs for the community on the positive health aspects of trees and to provide classes on growing, preparing and enjoying fresh locally grown foods.
- (4) Fiscal Year-End Balance; Termination. The Fund shall be non-reverting. The Fund will terminate without further action when all USDA Forest Service Grant funds have been expended in accordance with the terms of the Grant. Any remaining balances will revert to the General Fund upon fund termination.

PASSED by the Goshen Common Council on _____, 20____.

Presiding Officer

ATTEST:

Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on _____, 20____, at the hour of _____:_____.m.

Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on _____, 20____.

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 Ordinance 5194, Additional Appropriations

DATE: August 12, 2024

Thank you for considering Ordinance 5194, 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:

- The Parks and Recreation Department is facing a significant capital improvement that will require the City to issue bonds. This additional appropriation allows the Parks Department to pay for project costs until the bond issuance is completed and reimburses the Parks and Recreation Fund.
- The Environmental Resilience Department was recently awarded a federal grant that requires spending from a new USDA Forest Service Grant Fund. This additional appropriation allows the Environmental Resilience Department to spend the money they were awarded.

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 5194

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:

PARKS & RECREATION FUND

204-550-00-449.0000 P&R / Pool Project \$724,000.00

USDA FOREST SERVICE GRANT FUND

495-510-00-411.0140 USDA / Part Time Wages \$20,000.00

495-510-00-429.0000 USDA / Supplies 90,000.00

495-510-00-431.0500 USDA / Contractual Services 125,000.00

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