

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 date 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:

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

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

(k) n_o = 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) n_a = 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) G_o = 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) G_a = 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.

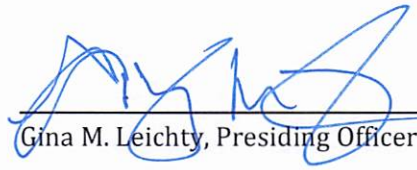
Section 19. SAVINGS CLAUSE

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.

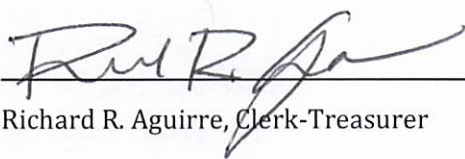
Section 20. EFFECTIVE DATE

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 ^{12th} ~~August~~ Aug 12 day of August, 2024.


Gina M. Leichty, Presiding Officer

ATTEST:


Richard R. Aguirre, Clerk-Treasurer

PRESENTED to the Mayor of the City of Goshen on Aug 12, 2024, at the hour of 6:40 p.m.


Richard R. Aguirre, Clerk-Treasurer

APPROVED and ADOPTED on Aug 12, 2024.

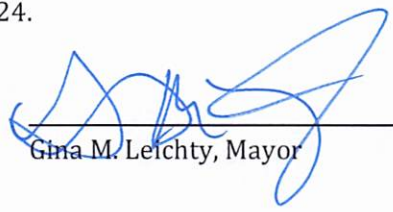

Gina M. Leichty, Mayor

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 feet.....three (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