

BILL NO. G-18-02-36

GENERAL ORDINANCE NO. G-_____

AN ORDINANCE AMENDING CHAPTER 51: SEWERS
OF THE FORT WAYNE MUNICIPAL CODE OF ORDINANCES TO
COMPLY WITH REQUIREMENTS OF THE U.S. ENVIRONMENTAL
PROTECTION AGENCY

WHEREAS, the City of Fort Wayne, Indiana (the "City") operates an industrial wastewater pretreatment program under National Pollution Discharge Elimination System Permit ("NPDES") No. IN0032191 (the "Permit"); and

WHEREAS, the Permit was issued on February 18, 2016, with an effective date of March 1, 2016, and is valid for a period of five (5) years; and

WHEREAS, pursuant to the terms of the Permit, the City was required within six (6) months of the date of issuance to re-evaluate the terms of its Sewer Use Ordinance, codified at Chapter 51 of the Fort Wayne Municipal Code of Ordinances, to determine whether it provides adequate legal authority to fully implement the City's pretreatment program, and conduct a technical re-evaluation of the City's local limits in accordance with 40 CFR 122.44(j)(2)(ii); and

WHEREAS, the City made several updates to its Sewer Use Ordinance upon the recommendations and requirements of the U.S. Environmental Protection Agency (the "EPA"), and timely submitted the proposed changes to the EPA for review; and

WHEREAS, the EPA has approved the proposed changes to the City's Sewer Use Ordinance, subject to approval and adoption by the Common Council of the City; and

WHEREAS, the City believes it is in its best interest to formally incorporate the proposed changes approved by the EPA into Chapter 51 of the Fort Wayne Municipal Code of Ordinances.

1 NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF
2 THE CITY OF FORT WAYNE, INDIANA:

3
4 **SECTION 1. Section 51.001 of Chapter 51 shall be deleted and**
5 **replaced as follows:**

6 § 51.001 DEFINITIONS.

7 Unless the context specifically indicates otherwise, the meanings of the
8 following terms as used in this chapter and as used in the Rules and
9 Regulations adopted by the Board of Public Works implementing the
10 provisions of this chapter for the Fort Wayne sewerage system are as set
11 out below respectively:

12 **ACT.** The Federal Water Pollution Control Act, also known as "The Clean
13 Water Act," as amended, 33 U.S.C. 1251 et seq.

14 **APPLICABLE PRETREATMENT STANDARDS.** Any pretreatment limit
15 or prohibitive standard (federal, state and/or local) contained in the
16 ordinance and considered to be the more restrictive with which non-domestic
17 users shall be required to comply.

18 **APPROVAL AUTHORITY.** The appropriate Regional Administrator in a
19 non-NPDES State or NPDES State without an approved State pretreatment
20 program.

21 **AREA CONNECTION FEE.** An additional fee charged at the time of
22 connection to the sewer utility for users from any classification of users
23 discharging sewage to the water pollution control utility from a geographic
24 area designated responsible to contribute to the payment of costs
25 associated with installation, adjustment or other improvement to the water
26 pollution control utility intended to serve the area connection fee area.

27 **AREA CONNECTION FEE AREA.** An area, system or subsystem
28 designated by the Board of Public Works wherein an area connection fee
29 may be collected.
30

AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a limited liability company: the managing member, president or vice-president of the limited liability company.

(3) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(4) If the user is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(5) The individuals described in divisions (1) through (4), above, may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company,

1 and the written authorization is submitted to the City.

2 **BEST MANAGEMENT PRACTICES (BMP's).** As it pertains to
3 industrial pretreatment, schedules of activities, prohibitions of practices,
4 maintenance procedures, and other management practices to implement
5 the prohibitions listed in 40 CFR 403. *BMP's* include treatment
6 requirements, operating procedures, and practices to control plant runoff,
7 spillage or leaks, sludge or waste disposal, or drainage from raw materials
8 storage. *BMP's* also include alternative means (i.e., management plans) of
9 complying with, or in place of certain established categorical pretreatment
10 standards and effluent limits.

11 **BIOCHEMICAL OXYGEN DEMAND (BOD).** The quantity of
12 dissolved oxygen, in milligrams per liter, required during the
13 stabilization of the decomposable organic matter by aerobic
14 biochemical action of sewage, sewage effluent, polluted waters or
15 industrial wastes under standard laboratory procedures for five days at
16 20° centigrade. The laboratory determinations shall be made in
17 accordance with procedures set forth in 40 CFR 136.

18 **BUILDING (OR HOUSE) DRAIN.** That part of the lowest piping of a
19 drainage system which receives the discharge from soil, waste and other
20 drainage pipes inside the walls of the building and conveys it to the
21 building sewer.

22 (1) **COMBINED.** A building drain which conveys both sewage and
23 storm water or other drainage.

24 (2) **SANITARY.** A building drain which conveys sewage only.

25 (3) **STORM.** A building drain which conveys storm water or
26 other drainage, but not sewage.

27 **BUILDING (OR HOUSE) DRAIN CONNECTION.** The point where
28 the building (or house) sewer is connected to the building drain at a
29 location approximately three feet outside the foundation wall of the
30 building.

BUILDING (OR HOUSE) SEWER. That part of the drainage system

1 which extends from the end of the building drain and conveys its discharge to
2 a public sewer, private sewer, individual sewage disposal system or other point
3 of disposal.

4 (1) **COMBINED.** A building sewer which conveys both sewage and
5 storm water or other drainage.

6 (2) **SANITARY.** A building sewer which conveys sewage only.

7 (3) **STORM.** A building sewer which conveys stormwater or
8 other drainage, but not sewage.

9 **BUILDING (OR HOUSE) SEWER CONNECTION.** The point where
10 the building sewer is connected to the public sewer. This connection to
11 the public sewer may be accomplished as follows:

12 (1) Where a tap-in connection is employed, the point of connection
13 shall be where the end of the building sewer meets the inside face of the
14 sewage system and the tapping "saddle and/or joint" shall be considered
15 part of the building sewer.

16 (2) Where fittings (T's or Y's) are employed the connection shall be
17 where the end of the first pipe meets the end of the fitting and the said T
18 or Y fitting shall be considered a part of the building sewer.

19 **BULK WASTE.** Trucked or hauled wastewater delivered directly to
20 the Water Pollution Control Plant or Biosolids Handling Facility for
21 disposal pursuant to prior written approval.

22 **CAPITAL IMPROVEMENT SURCHARGE.** The additional charges for
23 sewage service

24 collected from retail sanitary sewer users discharging sewage to the water
25 pollution control utility form a capital improvement surcharge area
26 designated to be responsible to contribute to the payment of costs
27 associated with installation, adjustment, or other improvements to the
28 water pollution control utility intended to serve the capital improvement
29 surcharge area.

30 **CAPITAL IMPROVEMENT SURCHARGE AREA.** An area, system or
subsystem designated by the Board of Public Works wherein a capital

improvement surcharge may be collected.

CATEGORICAL INDUSTRIAL USER. An industrial user subject to a categorical pretreatment standard or categorical standard as defined below.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD. Any

regulation promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) and codified in 40 CFR Chapter I, Subchapter N Parts 405-471, which contain pollutant discharge limits that apply to a specific category of industrial users.

CFR. The Code of Federal Regulations. When referenced in this chapter, CFR shall mean, unless otherwise specified, the version of the Code of Federal Regulations in effect as of the latest revision to Chapter 51 of the Fort Wayne Code of Ordinances.

CHEMICAL OXYGEN DEMAND (COD). A measure of oxygen equivalent to that portion of the organic matter in a sample of sewage, sewage effluent, polluted waters or industrial wastes that is susceptible to oxidation by a strong chemical oxidant. The laboratory determinations shall be made in accordance with procedures set forth in 40 CFR 136.

CITY. The City of Fort Wayne, Indiana.

CLASSIFICATION OF USERS.

(1) **RESIDENTIAL USERS.** Includes any user of the City's treatment works whose lot, parcel or real estate or building is used for domestic dwelling purposes only.

(2) **COMMERCIAL USER.** Includes all retail stores, restaurants, office buildings, laundries and other private business and service establishments, including those identified in the Standard Industrial Classification Manual, 1972, Office of Management and Budget Division I - Services.

(3) **INDUSTRIAL USER.** Any user who introduces pollutants into the POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.

1 **INDUSTRIAL USERS** shall be classified as follows:

2 (a) **NON-DISCHARGE USERS.** Includes all industries which
3 discharge sanitary sewage only, and industrial users whose discharge is
4 limited to non-contact cooling water, or boiler blowdown water.

5 (b) **NON-MAJOR INDUSTRIAL USER.** Includes all industries
6 which discharge process water but do not meet the criteria of
7 **SIGNIFICANT INDUSTRIAL USERS.**

8 (c) **SIGNIFICANT INDUSTRIAL USERS (SIU).** Except as
9 provided in subdivisions 3 and 4 of this definition, a significant
10 industrial user is an industrial user that meets one or more of the
11 criteria stated in subdivisions 1 or 2 below (consistent with 40 CFR
12 403.3(v)(1)):

13 1. An industrial user subject to categorical pretreatment standards; or

14 2. An industrial user that:

15 a. Discharges an average of 25,000 gpd or more of process
16 wastewater to the POTW (excluding sanitary, noncontact cooling and
17 boiler blowdown wastewater);

18 b. Contributes a process wastestream which makes up 5% or
19 more of the average dry weather hydraulic or organic capacity of the
20 POTW treatment plant; or

21 c. Is designated as such by the City on the basis that it has a
22 reasonable potential for adversely affecting the POTW's operation or for
23 violating any pretreatment standard or requirement.

24 3. The City may determine that an industrial user subject to
25 categorical pretreatment standards is a non-significant industrial user
26 rather than a significant industrial user on a finding that the industrial user
27 never discharges more than 100 gallons per day (gpd) of total categorical
28 wastewater (excluding sanitary, non-contact cooling and boiler blowdown
29 wastewater, unless specifically included in the pretreatment standard) and
30 the following conditions are met:

 a. The industrial user, prior to the City's finding, has

consistently complied with all applicable categorical pretreatment standards and requirements;

b. The industrial user annually submits the certification statement required at 40 CFR 403.12(q), together with any additional information necessary to support the certification statement; and

c. The industrial user never discharges any untreated concentrated wastewater.

4. Upon a finding that an industrial user meeting the criteria in division 2. of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such industrial user should not be considered a significant industrial user.

(4) **INSTITUTIONAL USER.** Includes social, charitable, religious and educational activities such as schools, churches, hospitals, nursing homes, penal institutions and similar institutional users.

(5) **GOVERNMENTAL USER.** Includes legislative, judicial, administrative and regulatory activities of federal, state and local governments.

COMPLIANCE SAMPLE. A sample taken of a user's effluent approximately 30 days after a violation of this chapter, the user's permit or the federal pretreatment standards and regulations has been discovered or reported. The user shall be billed for any compliance sample taken.

COMPOSITE SAMPLE. The sample resulting from the combination of discrete wastewater samples taken at selected intervals while the discharge rate is at or above normal based on an increment of either flow or time. Time intervals between discrete samples not to exceed two hours. The total duration of collection shall not exceed 24 hours.

CONTRACT CUSTOMER. Any user of the City Utilities Water Pollution

1 Control Utility that has signed a long-term contract committing to send
2 sewage flows to the Fort Wayne treatment works for treatment; and that
3 has provided growth projections and estimated average daily flows that
4 allow Fort Wayne to reserve capacity in the collection and treatment
5 system for such flows and that has committed – via contract – to control
6 peak flows or pay penalties for exceedances; or which has customers for
7 whom Fort Wayne does not provide direct account management and other
8 administrative services and does not provide direct sewage collection and
9 conveyance services; or any customer that has – by contract – has
10 committed themselves to terms and conditions that are not applicable to
11 retail customers. Users that do not meet these criteria shall be considered
12 retail users.

13 **CONTRIBUTING MUNICIPALITY.** A municipality that conveys
14 sewage collected from users within its territory to the City's POTW
15 for treatment pursuant to an interlocal agreement or other contract.
16 For purposes of this ordinance, a political subdivision other than a
17 municipality, such as a county or a regional sewer district, or a
18 quasi-public entity, such as a private entity that provides sewage
19 collection services to the public within the area over which it
20 exercises territorial authority, may be a Contributing Municipality.

21 **CONTROL AUTHORITY** as it pertains to industrial pretreatment. The City
22 of Fort Wayne, Indiana.

23 **DAILY MAXIMUM.** The arithmetic average of all effluent samples for a
24 pollutant collected during a representative 24-hour period.

25 **DAILY MAXIMUM LIMIT.** The maximum allowable discharge limit of
26 a pollutant during a representative 24-hour period. Where daily
27 maximum limits are expressed in units of mass, the daily discharge is the
28 total mass discharged over the course of the representative 24-hour
29 period. Where daily maximum limits are expressed in terms of a
30 concentration, the daily discharge is the arithmetic average measurement

1 of the pollutant concentration derived from all measurements taken during
2 the representative 24-hour period.

3 **DWELLING.** A building, or portion thereof, under one roof, used
4 primarily as the abode of one or more persons, but not including hotels,
5 motels, lodging or boarding houses or tourist homes.

6 **EFFLUENT.** The water, together with any wastes that may be present,
7 flowing out of a drain, sewer or outlet.

8 **EMERGENCY.** An unforeseen circumstance or combination of
9 circumstances that may cause an imminent endangerment to the health
10 and/or welfare of persons, the environment, or which may interfere with the
11 operation of the sewer collection system or the Water Pollution Control
12 Plant.

13 **EPA.** The United States Environmental Protection Agency.

14 **EQUIVALENT RESIDENTIAL UNIT (ERU).** A unit of measurement
15 representing the average daily sewage flow of a single-family dwelling as
16 established by the Indiana Department of Environmental Management.
17 Land use other than single-family dwellings shall be determined in terms of
18 ERUs by using standards adopted by the Board of Public Works.

19 **EXISTING SOURCE.** In relation to the potential applicability of a
20 Categorical Standard: any source that is not a new source or a new
21 discharger.

22 **FOLLOW-UP SAMPLE.** A sample taken of a user's effluent at the
23 City's discretion from a user receiving scheduled sampling, at times other
24 than those regularly scheduled. A follow-up sample shall be done at no cost
25 to the user.

26 **FOOD SERVICE ESTABLISHMENT.** Any establishment, including,
27 but not limited to, a restaurant, coffee shop, cafeteria, short-order cafe,
28 luncheonette, bar, tavern, sandwich stand, soda fountain, commissary,
29 drive-in restaurant, drink establishment, snack bar, food counter, dining
30 room, food catering facility, industrial cafeteria, convenience store, grocery
store, private, public or non-profit organization or institution routinely

1 serving food, and any other establishment, where food or drink produces
2 are prepared, served or provided for human consumption with or without
3 charge. The term does not include private homes where food is prepared
4 or served for individual family consumption, vending only facilities that
5 provide only pre-packaged foods, or any temporary establishment, whether
6 fixed or mobile, operating at one site for locations for a period of time not in
7 excess of 14 days.

8 **GARBAGE.** Any solid wastes from the preparation, cooking or
9 dispensing of food or from the handling, storage or sale of produce.

10 **GRAB SAMPLE.** An individual discrete effluent sample collected over a
11 period of time not to exceed 15 minutes without regard to the flow rate of
12 the wastestream.

13 **GROUND GARBAGE.** Garbage that is shredded to such a degree that
14 all particles will be carried freely in suspension under the conditions
15 normally prevailing in public sewers, with no particle being greater than
16 one-half inch in any dimension.

17 **INDIRECT DISCHARGE or DISCHARGE.** The introduction of
18 pollutants into the POTW (including the collection system leading to the
19 Water Pollution Control Plant) from any nondomestic source regulated
20 under Section 307(b), (c) or (d) of the Act. (33 U.S.C. 1317(b), (c), or (d)).

21 **INDUSTRIAL WASTES.** Any solid, liquid or gaseous substance or
22 form of energy discharged, permitted to flow or escape, or transported from
23 an industrial, manufacturing, commercial or business operation or process
24 or from the development, recovery or processing of any natural resource
25 carried on by any person.

26 **INFLUENT.** The water, together with any wastes that may be present,
27 flowing into a drain, sewer, receptacle or outlet.

28 **INSTANTANEOUS LIMIT.** The maximum concentration of a pollutant
29 allowed to be discharged at any time, determined from the analysis of any
30 discrete or composited sample collected, independent of the industrial flow
rate and the duration of the sampling event.

1 **INTERFERENCE.** A discharge that, alone or in conjunction with a
2 discharge or discharges from other sources, both:

3 (1) Inhibits or disrupts the POTW, its treatment processes or
4 operations, its sludge processes, or its selected sludge use or
5 disposal methods; and

6 (2) Causes;

7 (a) A violation of any requirement of the POTW's NPDES permit,
8 including an increase in the magnitude or duration of a violation;
9 or

10 (b) The prevention of the use of the POTW's sewage sludge or its
11 sludge disposal method in compliance with the following statutory
12 provisions, regulations, or permits issued thereunder or more stringent
13 state or local regulations:

14 (i) Section 405 of the Clean Water Act (33 U.S.C. 1345).

15 (ii) The Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901), including:

16 (A) Title II, more commonly referred to as the Resource
17 Conservation and Recovery Act (RCRA); and

18 (B) The rules contained in any state sludge management plan
19 prepared pursuant to Subtitle D of the SWDA (42 U.S.C.
20 6941);

21 (iii) The Clean Air Act (42 U.S.C. 7401).

22 (iv) The Toxic Substances Control Act (15 U.S.C. 2601); and

23 (v) The Marine Protection, Research and Sanctuaries Act.

24 **LOCAL LIMIT.** Specific discharge limits developed and enforced by
25 the City upon industrial or commercial facilities to implement the general
26 and specific discharge prohibitions listed in 40 CFR 403.5.

27 **MEDICAL WASTE.** Isolation wastes; infectious agents; human blood and
28 blood products; pathological wastes; sharps; body parts; contaminated
29 bedding; surgical wastes and potentially contaminated laboratory wastes;
30 dialysis wastes; and such additional medical items as prescribed by
regulation.

1 **METER ON WELL INSTALLATION.** A City Utilities-owned water
2 meter installed on a privately owned residential water well to obtain a
3 measure of water use for the purpose of calculating a monthly sewer
4 usage charge for the property.

5 **MONTHLY AVERAGE.** The total mass or flow-weighted concentration
6 of all daily discharges during a calendar month on which daily
7 discharges are sampled or measured, divided by the number of daily
8 discharges sampled and/or measured during such calendar month.

9 (1) For fecal coliform, the monthly average, as a concentration,
10 shall be calculated using a geometric mean.

11 (2) For E.coli, the monthly average, as a concentration, shall be
12 calculated using a geometric mean.

13 **MONTHLY AVERAGE LIMIT.** The highest allowable monthly average
14 discharge for any calendar month.

15 **NEW SOURCE.**

16 (1) Any building, structure, facility, or installation from which there
17 is (or may be) a discharge of pollutants, the construction of which
18 commenced after the publication of proposed pretreatment standards
19 under section 307(c) of the Act that will be applicable to such source if
20 such standards are thereafter promulgated in accordance with that section,
21 provided that:

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

24 (b) The building, structure, facility, or installation totally
25 replaces the process or production equipment that causes the
26 discharge of pollutants at an existing source; or

27 (c) The production or wastewater generating processes of the
28 building, structure, facility, or installation are substantially independent of an
29 existing source at the same site. In determining whether these are
30 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

1 facility is engaged in the same general type of activity as the existing
2 source, should be considered.

3 (2) Construction on a site at which an existing source is located
4 results in a modification rather than a new source if the construction does
5 not create a new building, structure, facility, or installation meeting the
6 criteria of divisions (1)(b) or (c) above but otherwise alters, replaces, or
7 adds to existing process or production equipment.

8 (3) Construction of a new source as defined under this paragraph
9 has commenced if the owner or operator has:

10 (a) Begun, or caused to begin, as part of a continuous onsite construction
11 program:

- 12 1. Any placement, assembly, or installation of facilities or equipment;
- 13 2. Significant site preparation work including clearing,
14 excavation, or removal of existing buildings, structures, or facilities
15 which is necessary for the placement, assembly, or installation of new
16 source facilities or equipment; or

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

23 **NONCONTACT COOLING WATER.** Water used for cooling that does
24 not come into direct contact with any raw material, intermediate product,
25 waste product, or finished product.

26 **NORMAL DOMESTIC SEWAGE.** Sewage having an average daily
27 suspended solids concentration of not more than 300 milligrams per liter,
28 an average daily BOD concentration of not more than 300 milligrams per
29 liter, an average daily COD concentration of not more than 600 milligrams
30 per liter, an average daily phosphorus concentration of not more than ten
milligrams per liter, and an average daily ammonia concentration of not

1 more than 25 milligrams.

2 **NPDES PERMIT.** The National Pollutant Discharge Elimination System
3 Permit issued to the City of Fort Wayne by the Indiana Department of
4 Environmental Management for discharges of waste waters to navigable
5 waters of the United States pursuant to Section 402 of the Act.

6 **OPERATION AND MAINTENANCE COSTS.** All costs direct and
7 indirect, other than debt services, including replacement costs as defined
8 herein, necessary to insure adequate wastewater treatment on a continuing
9 basis conforming with federal, state or local requirements and to insure
10 long-term facilities management.

11 **OUTLET.** Any outlet, natural or constructed, which is the point of final
12 discharge of sewage or of treatment plant effluent into any watercourse,
13 pond, ditch, lake or other body of surface or ground water.

14 **PASS THROUGH.** A discharge which exits the Water Pollution Control
15 Plant into waters of the United States in quantities or concentrations
16 which, alone or in conjunction with a discharge or discharges from other
17 sources, is a cause of a violation of any requirement of the City's NPDES
18 permit, including an increase in the magnitude or duration of a violation.

19 **PERSON.** Any individual, owner, discharger, lessee, occupant, firm,
20 partnership, company, municipal or private corporation, commercial
21 establishment, association, society, institution, enterprise, governmental
22 agency or other legal unit or entity or their legal representatives, agents, or
23 assigns. This definition includes all federal, state, and local governmental
24 entities.

25 **pH.** An expression of the intensity of the basic or acidic conditions of a liquid.

26 **POLLUTANTS.** Dredged spoil, solid waste, incinerator residue, filter
27 backwash, sewage, garbage, sewage sludge, munitions, medical wastes,
28 chemical wastes, biological materials, radioactive materials, heat, wrecked
29 or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and
30 industrial wastes, and certain characteristics of wastewater (e.g., pH,
temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

1 (1) **COMPATIBLE POLLUTANTS.** Waste containing
2 biochemical oxygen demand, chemical oxygen demand, suspended
3 solids, phosphorus, pH and fecal coliform bacteria and ammonia (NH).

4 (2) **INCOMPATIBLE POLLUTANTS.** Wastes with any pollutant
5 that is not a compatible pollutant which is regulated by the NPDES permit
6 or that would cause damage to the sewage system and/or treatment plant.

7 **PRETREATMENT.** The reduction of the amount of pollutants, the
8 elimination of pollutants, or the alteration of the nature of pollutant
9 properties in wastewater prior to, or in lieu of, introducing such pollutants
10 into the POTW. This reduction or alteration can be obtained by physical,
11 chemical, or biological processes; by process changes; or by any other
12 means, except by diluting the concentration of pollutants unless
specifically allowed by an applicable pretreatment standard.

13 **PRETREATMENT REQUIREMENTS.** Any substantive or procedural
14 requirement related to pretreatment imposed on a user, other than a
pretreatment standard.

15 **PRETREATMENT STANDARDS or STANDARDS.** Includes prohibited
16 discharge standards, categorical pretreatment standards, and state and
17 local pretreatment standards or limits.

18 **PROHIBITED DISCHARGE STANDARDS or PROHIBITED**
19 **DISCHARGES.** Absolute
20 prohibitions against the discharge of certain substances; these prohibitions
21 appear in § 51.033 of this chapter.

22 **PUBLICLY OWNED TREATMENT WORKS or POTW.** A treatment
23 works as defined by section 212 of the Act (33 U.S.C. 1292), which is
24 owned by a State or municipality (as defined by section 502(4) of the
25 Act (33 U.S.C. 1362(4))). In particular, this term includes the Water
26 Pollution Control Plant owned by the City, which is a municipality.
27 This definition includes any devices and systems used in the
28 collection, storage, treatment, recycling and reclamation of municipal
29 sewage or industrial wastes of a liquid nature, which collectively are
30

1 referred to as a POTW Treatment Plant. It also includes sewers,
2 pipes and other conveyances if they convey wastewater to a POTW
3 Treatment Plant, such as the Water Pollution Control Plant. The term
4 also means the municipality which has jurisdiction over the Indirect
5 Discharges to and the discharges from such a treatment works.

6 **RANDOM SAMPLE.** A sample taken at no charge to the user, at the
7 City's discretion of effluent produced by any user.

8 **RECEIVING STREAM.** The watercourse, stream or body of water
9 receiving the waters finally discharged from the sewage treatment plant.

10 **REGIONAL ADMINISTRATOR.** The appropriate Regional
11 Administrator of the EPA (Region V Regional Administrator).

12 **REPLACEMENT COSTS.** That cost, stated in current monetary values,
13 as an operating cost which represents and measures the expenditures
14 required to replace equipment, accessories or appurtenances of the
15 property in order to maintain capacity and performance during the useful
16 life of the property of the Water Pollution Control Utility.

17 **REPLACEMENT FUND.** A fund maintained to provide resources to
18 pay for replacement expenditures annually as required to maintain the
19 capacity and performance of the property of the sewage works.

20 **SANITARY SEWAGE.** Sewage discharged from the sanitary conveniences of
21 dwellings,
22 apartment houses, condominiums, motels, hotels, lodging or boarding
23 houses, office buildings, factories or institutions, and free from storm
24 water, surface water, groundwater and industrial wastes.

25 **SCHEDULED SAMPLE.** Routine sampling of a user's effluent, usually
26 twice a year for a commercial user and quarterly for industrial users.

27 **SEPTIC TANK WASTE.** Any sewage from holding tanks such as
28 vessels, chemical toilets, campers, trailers, and septic tanks.

29 **SERVICE CHARGE.** A charge levied on a user of the treatment works
30 which includes the user charge, a charge for local capital costs, and may
include other charges for current services.

1 **SEWAGE.** The water-carried wastes from residences, business
2 buildings, institutions and industrial establishments (including but not
3 limited to industrial wastes), singularly or in any combination, together
4 with such ground, surface and storm waters as may be present.

5 **SEWAGE TREATMENT PLANT or WATER POLLUTION CONTROL**
6 **PLANT (WPC**

7 **PLANT).** The arrangement of devices, structures and equipment used for
8 treating and disposing of sewage and sludge.

9 **SEWAGE WORKS or WATER POLLUTION CONTROL UTILITY.** All
10 facilities and systems for collecting, transporting, pumping, treating, disposing of sewage
11 and sludge, including the sewage treatment plant and the sanitary, storm and combination
12 sewer collection systems whether or not in active use.

13 **SEWER.** A pipe or conduit for carrying sewage and other waste
14 liquids as differentiated below:

15 (1) **COMBINED OR COMBINATION SEWER.** A sewer which
16 carries storm, surface and groundwater runoff as well as sewage.

17 (2) **PUBLIC SEWER.** A sewer which all owners of abutting
18 property have equal rights of use, subject to the provisions of this
19 Chapter 51, and is controlled and maintained by the City or other
20 public authority.

21 (3) **SANITARY SEWER.** A sewer which carries domestic and
22 unpolluted industrial sanitary sewage and to which stormwater,
23 surface water, groundwater and unpolluted industrial wastewaters are
24 not intentionally admitted.

25 (4) **STORM SEWER.** A sewer designed or intended to convey
26 only stormwater, surface runoff, street wash waters, and drainage,
27 and not intended for sanitary sewage or industrial wastes other
28 than unpolluted cooling water. The portion of a sewer intended to
29 carry stormwater only, which begins at the grating or opening
30 where water enters said sewer, through the sewer and any other
conduits to the outlet structure where water enters a channel,

1 natural watercourse or combined sewer. Also called a storm drain.

2 **SEWER ENGINEER.** The Facility Engineer of the City or his/her
3 designee.

4 **SEWERAGE SYSTEM.** The network of sewers and
5 appurtenances used for collecting, transporting and pumping
6 sewage to the Sewage Treatment Plant.

7 **SHALL.** Mandatory; **MAY** permissible.

8 **SIGNIFICANT NONCOMPLIANCE.** The term Significant Noncompliance
9 shall be applicable to all Significant Industrial Users (or any other
10 Industrial User that violates paragraphs (3), (4) or (8) of this section)
and shall mean one or more of the following:

11 (1) Chronic violations of wastewater discharge limits, defined
12 here as those in which sixty-six percent (66%) or more of all the
13 measurements taken for the same pollutant parameter taken during a
14 six-(6-) month period exceed (by any magnitude) a numeric
Pretreatment Standard or Requirement, including Instantaneous Limits;

15 (2) Technical Review Criteria (TRC) violations, defined here as
16 those in which thirty-three percent (33%) or more of all of the
17 wastewater measurements taken for each pollutant parameter during a
18 six- (6-) month period equals or exceeds the product of the numeric
19 Pretreatment Standard or Requirement including Instantaneous
20 Limits, multiplied by the applicable TRC (1.4 for BOD, TSS, fats, oils
and grease, and 1.2 for all other pollutants except pH);

21 (3) Any other violation of a Pretreatment Standard or
22 Requirement (Daily Maximum, long-term average, Instantaneous
23 Limit, or narrative standard) that the Superintendent determines has
24 caused, alone or in combination with other discharges, Interference
25 or Pass Through, including endangering the health of POTW
26 personnel or the general public;

27 (4) Any discharge of a pollutant that has caused imminent
28 endangerment to human health, welfare or to the environment, or that
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1 has resulted in the Superintendent's exercise of his/her emergency
2 authority to halt or prevent such a discharge;

3 (5) Failure to meet, within ninety (90) days after the schedule date,
4 a compliance schedule milestone contained in an individual
5 wastewater discharge permit or enforcement order for starting
6 construction, completing construction, or attaining final compliance;

7 (6) Failure to provide within forty-five (45) days after the due date,
8 any required reports, including baseline monitoring reports, reports on
9 compliance with categorical Pretreatment Standard deadlines, periodic
10 self-monitoring reports and reports on compliance with compliance
11 schedules;

12 (7) Failure to accurately report noncompliance; or

13 (8) Any other violation(s), which may include a violation of Best
14 Management Practices, which the Superintendent determines will
15 adversely affect the operation or implementation of the local
16 Pretreatment Program.

17 **SLUGLOAD or SLUG DISCHARGE** as it pertains to industrial
18 pretreatment. Any discharge at a flow rate or concentration which could
19 cause a violation of the prohibited discharge standards in this ordinance. A
20 **SLUG DISCHARGE** is any discharge of a non-routine, episodic nature,
21 including but not limited to an accidental spill or a non-customary batch
22 discharge, which has a reasonable potential to cause Interference or pass
23 through, or in any other way violate the POTW's regulations, local limits or
24 permit conditions.

25 **STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE.** A
26 classification pursuant to the Standard Industrial Classification Manual
27 used by the U.S. Office of Management & Budget.

28 **STANDARD METHODS.** The examination and analytical procedures
29 set forth in the most recent edition of "Standard Methods for the
30 Examination of Water and Wastewater," published jointly by the American
Water Works Association (AWWA) and the Water Environment

1 Federation (WEF), a copy of which is on file in the Office of the
2 Superintendent.

3 **STORMWATER.** Water resulting from rain, melting or melted snow,
4 hail, or sleet.

5 **STRENGTH-OF-WASTE SURCHARGE.** The additional charges for
6 sewage service collected from users discharging sewage into the system
7 having a strength measurement in excess of the limits imposed by the
8 provisions of this chapter.

9 **SUPERINTENDENT.** The Superintendent of the Water Pollution
10 Control Plant of the City, or his/her designee.

11 **SUSPENDED SOLIDS.** Solids which either float on the surface of or
12 are in suspension in water, sewage or other liquid and which are
13 removable by laboratory filtration. Their concentration is expressed in
14 milligrams per liter. Quantitative determinations are made in accordance
15 with procedures set forth in 40 CFR 136.

16 **TAP INSPECTION.** Onsite inspection performed or authorized by City
17 Utilities of a newly installed, replaced, repaired or altered building (or
18 house) sewer lateral and its connection to the City's public sanitary sewer
19 system. A tap inspection fee shall be charged to the property owner for the
20 cost of the inspection.

21 **TOXIC POLLUTANT.** One of 126 pollutants, or combinations of those
22 pollutants, listed as toxic in regulations promulgated by the EPA under the
23 provisions of Section 307 (33 U.S.C. 1317) of the Act.

24 **USER.** Any person who contributes, causes, or permits a
25 discharge of sewage into the City's sewerage system.

26 **USER CHARGE.** A charge imposed on users of a treatment works to
27 defray the cost of operation, maintenance and replacement.

28 **USER REQUESTED SAMPLE.** Any effluent sampled taken by the City
29 at the request of the user, the cost for which shall be billed to the user.

30 **WASTE SURVEILLANCE CHARGE.** A monthly charge collected
from users, qualifying as industrial or commercial class users, to defray

1 the cost of evaluating that user's waste by metering, sampling, laboratory
2 analysis and/or other methods deemed necessary. Said charges are set
3 forth in § 51.065 et seq.

4 **WASTEWATER.** Liquid or water-carried wastes from industrial,
5 municipal, agricultural, or other sources.

6 **WATER POLLUTION CONTROL PLANT (WPC PLANT).** See
7 **SEWAGE TREATMENT PLANT.**

8 **WATER POLLUTION CONTROL UTILITY.** See **SEWAGE WORKS.**

9 **WATERCOURSE.** A channel in which the flow of water occurs either
10 continuously or intermittently.

11 **SECTION 2. Section 51.002 of Chapter 51 shall be deleted and**
12 **replaced as follows:**

13 § 51.002 DAMAGE TO CITY PROPERTY PROHIBITED.

14 It shall be unlawful for any unauthorized person to maliciously,
15 willfully or negligently break, damage, destroy, remove, deface or
16 tamper with any structure, appurtenance or equipment which is part of
17 the City sewage system, the City's Water Pollution Control Plant or
18 property of others assigned to the City for operation and maintenance
19 and shall be liable for damage.

20 **SECTION 3. Section 51.003 of Chapter 51 shall be deleted and**
21 **replaced as follows:**

22 § 51.003 DILUTION.

23 It shall be unlawful for any person to increase the use of potable water
24 or process water in any way, or mix separate waste streams for the
25 purpose of diluting a discharge as a partial or complete substitute for
26 adequate treatment to achieve compliance with pretreatment standards
27 or requirements. The City may impose mass limitations on any persons
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1 using dilution to meet applicable pretreatment standards or discharge
2 permit requirements. The City may also impose mass limitations on
3 Users who are using dilution to meet applicable pretreatment standards
4 or requirements, or in other circumstances deemed appropriate by the
5 Board of Public Works.

6 **SECTION 4. Section 51.004 of Chapter 51 shall be deleted and**
7 **replaced as follows:**
8

9 § 51.004 ACCIDENTAL DISCHARGES.

10 (A) Each person shall provide protection from accidental discharge of
11 prohibited or regulated materials or substances to sewers of the City. Where
12 necessary, procedures and facilities to prevent the accidental discharge of
13 prohibited materials shall be provided and maintained at said discharger's
14 expense. Detailed plans showing facilities and operating procedures to
15 provide this protection shall be submitted to the Superintendent for review,
16 and be approved by the City before construction of the facility. Review and
17 approval of plans and operating procedures by the City shall not relieve the
18 discharger from the responsibility to modify its facility as necessary to meet
19 applicable federal, state and local requirements.

20 (B) All responsible persons shall notify the Superintendent of the
21 Water Pollution Control Plant, or his representative, immediately, but not
22 exceeding two hours, after a "slug load" or accidental discharge occurs. A
23 written report shall be submitted within five days of the incident. The
24 notification must include the location of the discharge, date and time of
25 occurrence, type of waste, concentration and volume and corrective
26 actions taken. Any person who discharges a "slug load" of prohibited
27 materials will be liable for any expense, including loss or damage to the
28 City's sewerage system and treatment facilities in addition to the amount of
29 any fines imposed upon the City under state or federal law. Any person
30 who discharges a "slug load" must evaluate whether a slug discharge plan

1 or other action is needed to control slug discharges.

2 (C) Signs must be permanently posted in conspicuous places on the
3 dischargers' premises, advising employees whom to call in the event of an
4 accidental discharge. Employers shall adequately instruct all employees
5 who may cause or discover such discharges of the emergency notification
6 procedures.

7 (D) All users that are subject to annual inspection will have a
8 documented review of the above required facilities and or plans for
9 adequacy as a part of the annual inspection process.

10 (E) The POTW shall evaluate whether each significant industrial user
11 needs a plan or other action to control slug discharges. Industrial users
12 must be evaluated within 1 year of being designated a significant
13 industrial user.

14 (F) Significant industrial users are required to notify the POTW
15 immediately of any changes at its facility affecting the potential for a slug
16 discharge.

17 (G) If the POTW decides that a slug control plan is needed, the plan
18 shall contain, at a minimum, the following elements:

19 (1) Description of discharge practices, including non-routine
20 batch discharges;

21 (2) Description of stored chemicals;

22 (3) Procedures for immediately notifying the POTW of slug
23 discharges, including any discharge that would violate a
24 prohibition under § 51.033 with procedures for follow-up
25 written notification within five days;

26 (4) If necessary, procedures to prevent adverse impact from
27 accidental spills, including inspection and maintenance of
28 storage areas, handling and transfer of materials, loading
29 and unloading operations, control of plant site run-off, worker
30 training, building of containment structures or equipment,
measures for containing toxic organic pollutants (including

1 solvents), and/or measures and equipment for emergency
2 response.

3
4 **SECTION 5. Section 51.015 of Chapter 51 shall be deleted and**
5 **replaced as follows:**

6 § 51.015 REQUIREMENTS FOR CONNECTION TO PUBLIC
7 SEWERS.

8 City Utilities shall have the authority to require an owner of real
9 property to disconnect any downspouts, yard drains, sump pumps, or
10 other drains which carry the runoff of natural precipitation from a building
11 sewer which drains into a sanitary sewer, or in areas served by combined
12 sewers where City Utilities determines the additional load placed on the
13 system has been found to be detrimental to properties in that area.
14 Property owners shall have 30 days after notice thereof to comply with
15 any such requirement.

16 **SECTION 6. Section 51.016 of Chapter 51 shall be deleted and**
17 **replaced as follows:**

18 § 51.016 EXTENSIONS OF SEWERS OUTSIDE CORPORATE
19 LIMITS.

20 The installation, construction, or extension of sanitary sewers by private
21 developers or by the City outside the corporate limits of the City and the
22 connection of said sanitary sewers into the City's sewage system from, by,
23 to, or for properties located outside such limits is prohibited, except with
24 the approval of the Board of Public Works by duly enacted resolution,
25 provided that a resolution ratifying and agreement and/or contract for such
26 construction and connection shall be deemed to constitute such approval.

1 **SECTION 7. Section 51.017 of Chapter 51 shall be deleted and**
2 **replaced as follows:**

3
4 § 51.017 CONNECTIONS TO SEWERAGE SYSTEM BY
5 CERTAIN PROPERTIES OUTSIDE CORPORATE LIMITS.

6 Notwithstanding the provisions of § 51.016, the Board of Public Works
7 shall have the authority to permit a property located outside the corporate
8 limits of the City to connect to an existing sanitary sewer which is part of the
9 City's sewerage system, when the property abuts, adjoins or is immediately
10 contiguous to the street, alley or easement in which such sewer is located
11 and provided the property owner or occupant has complied with the
12 requirements prescribed by § 51.015 of this chapter.

13 **SECTION 8. Section 51.030 of Chapter 51 shall be deleted and**
14 **replaced as follows:**

15 § 51.030 PRIOR APPROVAL FOR CERTAIN WASTES.

16 (A) The Superintendent shall have the authority to deny or condition
17 new or increased contributions of pollutants, or changes in the nature of
18 pollutants, to the POTW by industrial users where such contributions do
19 not meet applicable pretreatment standards and requirements or where
20 such contributions would cause the POTW to violate its NPDES permit.

21 (B) An industrial user shall be subject to the provisions of this section, as
22 well as all other sections of Chapter 51 (excluding §§ 51.050-51.059), if the
23 industrial user's waste is discharged into a portion of the City's sewerage
24 system from which the sewage conveyed thereby is:

25 (1) diverted, from time to time, in part or in whole, to a sewerage
26 treatment plant other than the City's WPC Plant, including but not limited to
27 a privately owned treatment plant; and
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1 (2) conveyed, at least intermittently, in part or in whole, to the WPC
2 Plant owned by the City.

3 (C) With respect to an industrial user described in subsection (B), above,
4 the Superintendent shall have the authority to establish additional local
5 limitations, consistent with the provisions of §51.033, that will be applicable
6 to the industrial user's discharge and that are designed to protect the
7 sewage treatment plant described in paragraph (B)(1) from:

8 (1) Interference or pass through if such sewage treatment plant is a
9 POTW;

10 (2) Effects or impacts equivalent to interference or pass through if such
11 sewage treatment plant is privately owned. The provisions of § 51.033
12 shall apply in the same manner and to the same extent as if the sewage
treatment plant were a publicly owned treatment works.

13 (D) Review and acceptance by the Superintendent shall be obtained prior
14 to the discharge into the sewage works sewers by any persons having
15 sewage wastes which contain:

16 (1) Either a BOD content greater than 300 milligrams per liter or a
17 COD greater than 600 milligrams per liter.

18 (2) A suspended solids content greater than 300 milligrams per liter.

19 (3) A phosphorus content greater than 10 milligrams per liter.

20 (4) An ammonia content greater than 25 milligrams per liter.

21 (5) Other contaminants which either from their constituents or quantities
will:

22 (a) Interfere with the operation of any portion of the sewage works;

23 (b) Pass through the treatment works or otherwise be incompatible with
such works;

24 (c) Prevent the reclamation and/or recycling of municipal or
25 industrial wastewaters and sludges.

26 (E) However, nothing in this section or elsewhere in this chapter shall be
27 read to allow the user to discharge pollutants which shall cause
28 interference or pass through and/or to absolve the user from liability in the
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1 occurrence of a discharge which causes such interference or pass through.

2 (F) When requested by the City, a user must submit
3 information on the nature and characteristics of its wastewater
4 within 30 days of the request.

5 (G) No significant industrial user shall discharge wastewater into the
6 POTW without first obtaining a valid industrial wastewater discharge
7 permit, which shall contain the specific pretreatment program
8 requirements to be complied with by the user. The City may also require
9 other users to obtain an industrial wastewater discharge permit as
10 necessary to carry out the purposes of this chapter.

11 (H) Any violation of the terms and conditions of a valid industrial wastewater
12 discharge permit, including any best management practices contained therein,
13 shall be deemed a violation of this chapter and subject the permittee to
14 enforcement as set out at § 51.111 of this chapter.

15 (I) Obtaining an industrial wastewater discharge permit does not
16 relieve a permittee of its obligation to comply with all federal and state
17 pretreatment standards or requirements or with any other requirements
18 of federal, state, and local law.

19 (J) Individual wastewater discharge permits must contain:

20 (1) A statement that indicates the wastewater discharge permit issuance
21 date, expiration date and effective date. Such a permit shall not exceed
22 five (5) years in duration.

23 (2) A statement that the wastewater discharge permit is
24 nontransferable without prior notification to the City in accordance
25 with this chapter, and provisions for furnishing the new owner or
26 operator with a copy of the existing wastewater discharge permit.

27 (3) Effluent limits, including best management practices, based on
28 applicable pretreatment standards.

29 (4) Self-monitoring, sampling, reporting, notification, and record-
30 keeping requirements. These requirements shall include an
identification of pollutants to be monitored, sampling location, sampling

1 frequency, and sample type based on applicable Pretreatment Standards
2 and/or other applicable federal, state, and local law.

3 (5) A statement of applicable civil and criminal penalties for
4 violation of pretreatment standards and requirements, and any
5 applicable compliance schedule. Such schedule may not extend the
6 time for compliance beyond that required by applicable federal,
7 state, or local law.

8 (6) Requirements to control slug discharge, if determined by the
9 Superintendent to be necessary.

10 (K) Individual wastewater discharge permits may contain the following
11 conditions when determined to be necessary or appropriate by the
12 Superintendent:

13 (1) Limits on the average and/or maximum rate of discharge, time
14 of discharge, and/or requirements for flow regulation and equalization;

15 (2) Requirements for the installation of pretreatment technology,
16 pollution control, or construction of appropriate containment devices,
17 designed to reduce, eliminate, or prevent the introduction of pollutants
18 into the treatment works;

19 (3) Requirements for the development and implementation of spill
20 control plans or other special conditions including management practices
21 necessary to adequately prevent accidental, unanticipated, or nonroutine
22 discharges;

23 (4) Development and implementation of waste minimization plans
24 to reduce the amount of pollutants discharged to the POTW;

25 (5) Requirements for installation and maintenance of inspection
26 and sampling facilities and equipment, including flow measurement
27 devices;

28 (6) A statement that compliance with the individual wastewater
29 discharge permit does not relieve the permittee of responsibility for
30 compliance with all applicable federal and state pretreatment standards,
including those which become effective during the term of the individual

1 wastewater discharge permit; and

2 (7) Other conditions as deemed appropriate by the Superintendent
3 to ensure compliance with this chapter, and state and federal laws, rules,
4 and regulations.

5 **SECTION 9. Section 51.031 of Chapter 51 shall be deleted and**
6 **replaced as follows:**
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8 § 51.031 PRETREATMENT FACILITIES; APPROVAL OF
9 PROPOSED PLANS, OPERATION.

10 (A) *General.* Industrial Users shall provide wastewater treatment as
11 necessary to comply with this chapter and shall achieve compliance with all
12 categorical pretreatment standards, local limits, and the prohibitions set out
13 in this chapter within the time limitations specified by EPA, the State of
14 Indiana, or the City, whichever is more stringent. Any facilities necessary
15 for compliance shall be provided, operated, and maintained at the users'
expense.

16 (B) *Prior approval.* Detailed plans describing such facilities and
17 operating procedures shall be submitted to the City for review, and shall be
18 acceptable to the City before such facilities are constructed. The review of
19 such plans and operating procedures shall in no way relieve the user from
20 the responsibility of modifying such facilities as necessary to produce a
21 discharge acceptable to the City under the provisions of this chapter.

22 (C) *Operation.* Where pretreatment facilities are provided pursuant to
23 the Superintendent's approval, they shall be maintained continuously in
24 satisfactory and effective operating condition at the user's expense and
25 shall be subject to periodic and random inspection and sampling by the
26 City. The user responsible for such facilities shall maintain suitable
27 operating records which shall be open to inspection by the City, and shall
28 submit to the Superintendent such summary reports of the character of the
29 influent and effluent of the facilities as the Superintendent may require. All
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1 records and reports shall be retained for a minimum of three years.

2 (D) Pursuant to 40 CFR 403.12, the City may, at its discretion, require
3 that records be kept for a longer period in the case of unresolved litigation
4 or when requested by the approval authority.

5 (E) All industrial users, whether defined as categorical or
6 noncategorical industry by state and federal regulation, shall comply with
7 all applicable requirements of 40 CFR 403.12, including, when
8 applicable, baseline monitoring reports (BMRs), 90-day compliance
9 reports, and periodic compliance reports.

10 (F) *Additional measures.* Whenever deemed necessary, the City may
11 require users to restrict their discharge during peak flow periods, designate
12 that certain wastewater be discharged only into specific sewers, relocate
13 and/or consolidate points of discharge, separate waste streams, and such
14 other conditions as may be necessary to protect the POTW and determine
15 the user's compliance with the requirements of this chapter.

16 (G) *Bypass.*

17 (1) For the purposes of this section:

18 (a) **BYPASS** means the intentional diversion of wastestreams from
19 any portion of a user's treatment facility.

20 (b) **SEVERE PROPERTY DAMAGE** means substantial physical
21 damage to property, damage to the treatment facilities which causes them
22 to become inoperable, or substantial and permanent loss of natural
23 resources which can reasonably be expected to occur in the absence of a
24 bypass. Severe property damage does not mean economic loss caused by
25 delays in production.

26 (2) A user may allow any bypass to occur which does not cause
27 pretreatment standards or requirements to be violated, but only if it also
28 is for essential maintenance to assure efficient operation. These
29 bypasses are not subject to the provisions of this section.

30 (a) Bypass is prohibited, and the Superintendent may take an
enforcement action against a user for a bypass, unless:

1 1. Bypass was unavoidable to prevent loss of life, personal
2 injury, or severe property damage;

3 2. There were no feasible alternatives to the bypass, such as the
4 use of auxiliary treatment facilities, retention of untreated wastes, or
5 maintenance during normal periods of equipment downtime. This
6 condition is not satisfied if adequate back-up equipment should have been
7 installed in the exercise of reasonable engineering judgment to prevent a
8 bypass which occurred during normal periods of equipment downtime or
9 preventive maintenance; and

10 3. The user submitted notices as required under this section.

11 (b) The Superintendent may approve an anticipated bypass, after
12 considering its adverse effects, if the Superintendent determines that it will
13 meet the three conditions listed above.

14 (3) *Bypass notifications.*

15 (a) If a user knows in advance of the need for a bypass, it shall
16 submit prior notice to the Superintendent, at least ten days before the
17 date of the bypass, if possible.

18 (b) A user shall submit oral notice to the Superintendent of an
19 unanticipated bypass that exceeds applicable pretreatment standards
20 within 24 hours from the time it becomes aware of the bypass. A written
21 submission shall also be provided within five days of the time the user
22 becomes aware of the bypass. The written submission shall contain a
23 description of the bypass and its cause; the duration of the bypass,
24 including exact dates and times, and, if the bypass has not been corrected,
25 the anticipated time it is expected to continue; and steps taken or planned to
26 reduce, eliminate, and prevent reoccurrence of the bypass. The
27 Superintendent may waive the written report on a case-by-case basis if the
28 oral report has been received within 24 hours.
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1 **SECTION 10. Section 51.032 of Chapter 51 shall be deleted and**
2 **replaced as follows:**

3 § 51.032 FEDERAL PRETREATMENT STANDARDS.

4 (A) As part of this chapter the City shall enforce this ordinance and
5 all federal pretreatment standards including but not limited to categorical
6 pretreatment standards upon industrial users within its service area or
7 within the service area of any contract customers.

8 (B) Categorical industrial users must comply with all applicable
9 categorical pretreatment standards. All categorical pretreatment
10 standards, as found in 40 CFR Chapter I, Subchapter N, Parts 405-471,
11 are hereby incorporated by reference into this chapter, as if fully set forth
12 herein.

13 (1) Where a categorical pretreatment standard is expressed only in
14 terms of either the mass or concentration of a pollutant in wastewater, the
15 City may impose equivalent concentration or mass limits in accordance
16 with 40 CFR 403.6.

17 (2) When the limits in a categorical pretreatment standard are
18 expressed only in terms of mass of pollutant per unit of production, the City
19 may convert the limits to equivalent limitations expressed as either mass of
20 pollutant discharged per day or effluent concentration for purposes of
21 calculating limitations applicable to individual industrial users in accordance
22 with 40 CFR 403.6.

23 (3) When wastewater subject to categorical pretreatment
24 standards is mixed with wastewater not regulated by the same
25 standard, the City shall impose an alternate limit in accordance with
26 40 CFR 403.6.

27 (C) *Baseline monitoring reports.*

28 (1) Within either 180 days after the effective date of a categorical
29 pretreatment standard, or the final administrative decision on a category
30 determination under 40 CFR 403.6(a)(4), whichever is later, existing

1 categorical industrial users currently discharging to or scheduled to
2 discharge to the POTW shall submit to the Superintendent a report which
3 contains the information listed below. At least 90 days prior to
4 commencement of their discharge, new sources, and sources that become
5 categorical industrial users subsequent to the promulgation of an applicable
6 categorical standard, shall submit to the Superintendent a report which
7 contains the information listed below. A new source shall report the method
8 of pretreatment it intends to use to meet applicable categorical standards.
9 A new source also shall give estimates of its anticipated flow and quantity of
10 pollutants to be discharged.

11 (2) Categorical industrial users described above shall submit the
12 information set forth below.

13 (a) Identifying information.

14 1. The name and address of the facility, including the name of the
15 operator and owner.

16 2. Contact information, description of activities, facilities,
17 and plant production processes on the premises.

18 (b) Environmental permits. A list of any environmental control
19 permits held by or for the facility.

20 (c) Description of operations. A brief description of the nature,
21 average rate of production (including each product produced by type,
22 amount, processes, and rate of production), and standard industrial
23 classifications of the operation(s) carried out by such user. This description
24 should include a schematic process diagram, which indicates points of
25 discharge to the POTW from the regulated processes.

26 (d) Types of wastes generated, and a list of all raw materials and
27 chemicals used or stored at the facility which are, or could accidentally or
28 intentionally be, discharged to the POTW.

29 (e) Number and type of employees, hours of operation, and
30 proposed or actual hours of operation.

1 (f) Type and amount of raw materials processed (average and maximum
2 per day).

3 (g) Site plans, floor plans, mechanical and plumbing plans, and
4 details to show all sewers, floor drains, and appurtenances by size, location,
5 and elevation, and all points of discharge.

6 (h) Time and duration of discharges.

7 (i) The location for monitoring all wastes covered by the permit.

8 (j) Flow measurement. Information showing the measured average
9 daily and maximum daily flow, in gallons per day, to the POTW from
10 regulated process streams and other streams, as necessary, to allow use of
the combined wastestream formula set out in 40 CFR 403.6(e).

11 (k) Measurement of pollutants.

12 (l) The categorical pretreatment standards applicable to each
13 regulated process and any new categorically regulated processes for
existing sources.

14 (m) The results of sampling and analysis identifying the nature and
15 concentration, and/or mass, where required by the standard or by the
16 Superintendent, of regulated pollutants in the discharge from each
17 regulated process.

18 1. Instantaneous, daily maximum, and long-term average
19 concentrations, or mass, where required, shall be reported.

20 2. The user shall take a minimum of one representative sample to
21 compile that data necessary to comply with the requirements of this
22 paragraph. The sample shall be representative of daily operations and shall
23 be analyzed in accordance with procedures set out in 40 CFR 136. Where
24 the standard requires compliance with a BMP or pollution prevention
25 alternative, the user shall submit documentation as required by the
26 Superintendent or the applicable standards to determine compliance with
the standard.

27 3. Samples should be taken immediately downstream from
28 pretreatment facilities if such exist or immediately downstream from the
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1 regulated process if no pretreatment exists. If other wastewaters are mixed
2 with the regulated wastewater prior to pretreatment the user should measure
3 the flows and concentrations necessary to allow use of the combined
4 wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the
5 pretreatment standards. Where an alternate concentration or mass limit has
6 been calculated in accordance with 40 CFR 403.6(e) this adjusted limit
7 along with supporting data shall be submitted to the control authority.

8 4. Sampling and analysis shall be performed in accordance with 40 CFR
9 136.

10 (n) The Superintendent may allow the submission of a baseline
11 report which utilizes only historical data so long as the data provides
12 information sufficient to determine the need for industrial pretreatment
13 measures.

14 (o) The baseline report shall indicate the time, date and place of
15 sampling and methods of analysis, and shall certify that such sampling and
16 analysis is representative of normal work cycles and expected pollutant
17 discharges to the POTW.

18 (p) Compliance certification. A statement, reviewed by the user's
19 authorized representative as defined in § 51.001 and certified by a
20 qualified professional, indicating whether pretreatment standards are
21 being met on a consistent basis, and, if not, whether additional operation
22 and maintenance (O&M) and/or additional pretreatment is required to
23 meet the pretreatment standards and requirements.

24 (q) Compliance schedule. If additional pretreatment and/or O&M
25 will be required to meet the pretreatment standards, the shortest schedule
26 by which the user will provide such additional pretreatment and/or O&M
27 must be provided. The completion date in this schedule shall not be later
28 than the compliance date established for the applicable pretreatment
29 standard.

30 (r) Signature and report certification. All baseline monitoring
reports must be certified in accordance with this chapter and signed by an

1 authorized representative as defined in § 51.001.

2 (D) *Compliance schedule progress reports.* The following
3 conditions shall apply to any compliance schedule required by this
4 chapter.

5 (1) The schedule shall contain progress increments in the form of
6 dates for the commencement and completion of major events leading to the
7 construction and operation of additional pretreatment required for the user
8 to meet the applicable pretreatment standards (such events include, but are
9 not limited to, hiring an engineer, completing preliminary and final plans,
10 executing contracts for major components, commencing and completing
11 construction, and beginning and conducting routine operation);

12 (2) No increment referred to above shall exceed nine months;

13 (3) The user shall submit a progress report to the Superintendent no
14 later than 14 days following each date in the schedule and the final date
15 of compliance including, as a minimum, whether or not it complied with
16 the increment of progress, the reason for any delay, and, if appropriate,
17 the steps being taken by the user to return to the established schedule;
18 and

19 (4) In no event shall more than nine months elapse between such
20 progress reports to [the Superintendent].

21 (E) *Reports on compliance with categorical pretreatment standard*
22 *deadline.* Within 90 days following the date for final compliance with
23 applicable categorical pretreatment standards, or in the case of a new
24 source following commencement of the introduction of wastewater into the
25 POTW, any user subject to such pretreatment standards and requirements
26 shall submit to the Superintendent a report containing the information
27 described in this chapter. For users subject to equivalent mass or
28 concentration limits established in accordance with the procedures in 40
29 CFR 403.6(c), this report shall contain a reasonable measure of the user's
30 long-term production rate. For all other users subject to categorical
pretreatment standards expressed in terms of allowable pollutant discharge

1 per unit of production (or other measure of operation), this report shall
2 include the user's actual production during the appropriate sampling
3 period. All compliance reports must be signed and certified in accordance
4 with of this chapter. All sampling will be done in conformance with 40
5 CFR 136.

6 (F) *Periodic compliance reports.*

7 (1) All significant industrial users must, at a frequency determined by
8 the Superintendent submit no less than twice per year (June and
9 December) reports indicating the nature, concentration of pollutants in the
10 discharge which are limited by pretreatment standards and the measured or
11 estimated average and maximum daily flows for the reporting period. In
12 cases where the pretreatment standard requires compliance with a best
13 management practice (BMP) or pollution prevention alternative, the user
14 must submit documentation required by the Superintendent or the
15 pretreatment standard necessary to determine the compliance status of the
16 user.

17 (2) If a user subject to the reporting requirement in this section
18 monitors any regulated pollutant at the appropriate sampling location
19 more frequently than required by the Superintendent, using the
20 procedures prescribed in this chapter, the results of this monitoring shall
21 be included in the report. [Note: See 40 CFR 403.12(g)(6)].

22 (G) *Reports of changed conditions.* Each user must notify the
23 Superintendent of any significant changes to the user's operations or
24 system which might alter the nature, quality, or volume of its wastewater
25 at least 30 days before the change.

26 (1) The Superintendent may require the user to submit such
27 information as may be deemed necessary to evaluate the changed
28 condition, including the submission of a wastewater discharge permit
29 application.

30 (2) The Superintendent may issue an individual wastewater discharge
permit under this ordinance or modify an existing wastewater discharge

1 permit in response to changed conditions or anticipated changed
2 conditions.

3 (H) *Reports from unpermitted users.* All users not required to
4 obtain an individual wastewater discharge permit shall provide
5 appropriate reports to the Superintendent as the Superintendent may
6 require.

7 (I) *Notice of violation/repeat sampling and reporting.*

8 (1) If sampling performed by a user indicates a violation, the user
9 must notify the Superintendent within 24 hours of becoming aware of the
10 violation. The user shall also repeat the sampling and analysis and submit
11 the results of the repeat analysis to the Superintendent within 30 days after
12 becoming aware of the violation. Resampling by the industrial user is not
13 required if the City performs sampling at the user's facility at least once a
14 month, or if the City performs sampling at the user between the time when
15 the initial sampling was conducted and the time when the user or the City
16 receives the results of this sampling, or if the City has performed the
17 sampling and analysis in lieu of the industrial user.

18 (2) If the City performed the sampling and analysis in lieu of the
19 industrial user, the City will perform the repeat sampling and analysis
20 unless it notifies the user of the violation and requires the user to perform
21 the repeat sampling and analysis. See 40 CFR 403.12(g) (2).

22 (J) *Notification of the discharge of hazardous waste.*

23 (1) Any user who commences the discharge of hazardous waste shall
24 notify the POTW, the EPA Regional Waste Management Division Director,
25 and State hazardous waste authorities, in writing, of any discharge into the
26 POTW of a substance which, if otherwise disposed of, would be a
27 hazardous waste under 40 CFR Part 261. Such notification must include
28 the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA
29 hazardous waste number, and the type of discharge (continuous, batch, or
30 other). If the user discharges more than 100 kilograms of such waste per
calendar month to the POTW, the notification also shall contain the

1 following information to the extent such information is known and readily
2 available to the user: an identification of the hazardous constituents
3 contained in the wastes, an estimation of the mass and concentration of
4 such constituents in the wastestream discharged during that calendar month,
5 and an estimation of the mass of constituents in the wastestream expected to
6 be discharged during the following 12 months. All notifications must take
7 place no later than 180 days after the discharge commences. Any
8 notification under this division need be submitted only once for each
9 hazardous waste discharged. However, notifications of changed conditions
10 must be submitted under this chapter. The notification requirement in this
11 section does not apply to pollutants already reported by users subject to
12 categorical pretreatment standards under the self-monitoring requirements of
13 this chapter.

14 (2) Dischargers are exempt from the requirements of division (1)
15 above, during a calendar month in which they discharge no more than 15
16 kilograms of hazardous wastes, unless the wastes are acute hazardous
17 wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more
18 than 15 kilograms of nonacute hazardous wastes in a calendar month, or of
19 any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d)
20 and 261.33(e), requires a one-time notification. Subsequent months during
21 which the user discharges more than such quantities of any hazardous
22 waste do not require additional notification.

23 (3) In the case of any new regulations under section 3001 of RCRA
24 identifying additional characteristics of hazardous waste or listing any
25 additional substance as a hazardous waste, the user must notify the
26 Superintendent, the EPA Regional Waste Management Waste Division
27 Director, and State hazardous waste authorities of the discharge of such
28 substance within 90 days of the effective date of such regulations.

29 (4) In the case of any notification made under this section, the user
30 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

1 economically practical.

2 (5) This provision does not create a right to discharge any substance
3 not otherwise permitted to be discharged by this chapter, a permit issued
4 thereunder, or any applicable federal or state law.

5 (K) *Analytical requirements.* All pollutant analyses, including sampling
6 techniques, to be
7 submitted as part of a wastewater discharge permit application or report
8 shall be performed in accordance with the techniques prescribed in 40 CFR
9 Part 136 and amendments thereto, unless otherwise specified in an
10 applicable categorical pretreatment standard. If 40 CFR Part 136 does not
11 contain sampling or analytical techniques for the pollutant in question, or
12 where the EPA determines that the Part 136 sampling and analytical
13 techniques are inappropriate for the pollutant in question, sampling and
14 analyses shall be performed by using validated analytical methods or any
15 other applicable sampling and analytical procedures, including procedures
16 suggested by the Superintendent or other parties approved by EPA.

17 (L) *Certification statements.* The following certification statement is
18 required to be signed and submitted by users submitting permit
19 applications in accordance with this chapter; users submitting baseline
20 monitoring reports [Note: See 40 CFR 403.12(l)]; users submitting reports
21 on compliance with the categorical pretreatment standard deadlines ; and
22 users submitting periodic compliance reports. The following certification
23 statement must be signed by an authorized representative as defined in §
24 51.001:

25 "I certify under penalty of law that this document and all attachments were
26 prepared under my direction or supervision in accordance with a system
27 designed to assure that qualified personnel properly gather and evaluate
28 the information submitted. Based on my inquiry of the person or persons
29 who manage the system, or those persons directly responsible for gathering
30 the information, the information submitted is, to the best of my knowledge
and belief, true, accurate, and complete. I am aware that there are

1 significant penalties for submitting false information, including the possibility
2 of fine and imprisonment for knowing violations."

3
4 **SECTION 11. Section 51.033 of Chapter 51 shall be deleted and**
5 **replaced as follows:**

6 § 51.033 PROHIBITED DISCHARGES AND LIMITATIONS.

7 *General Prohibitions.* No user shall introduce or cause to be introduced
8 into the POTW any pollutant or wastewater which causes pass through or
9 interference. These general prohibitions apply to all users of the POTW
10 whether or not they are subject to categorical pretreatment standards or any
11 other national, state, or local pretreatment standards or requirements.
12 Except as hereinbefore provided, no person shall discharge or cause or
13 permit to be discharged into the public sewer any of the following described
substances, wastes or waters:

14 (A) Any liquid or vapor having a temperature greater than 140° F. (60°
15 C), or any wastewater which will cause the WPC Plant's influent to exceed
16 104° F. (40° C).

17 (B) Petroleum oil, nonbiodegradable cutting oil, or products of mineral
18 oil origin, in amounts that will cause interference or pass through. This shall
19 include but not be limited to any waters or wastes from industrial sources
20 containing more than 100 milligrams per liter of total oil and grease (TOG).
21 Acceptable limits for animal-vegetable based fats, oils and grease shall be
22 determined by the Board of Public Works and set out in the Sewer Utility
23 Rules and Regulations. Said maximum limits shall be calculated and set at
24 an amount shown not to cause interference or obstruction in the collection
25 system and/or sewerage works, and shall be reevaluated and adjusted as
necessary to protect the integrity of the sewer utility.

26 (C) Any gasoline, benzene, naphtha, fuel oil, mineral oil or any other
27 flammable or explosive solid, liquid or gas.

28 (D) Pollutants which result in the presence of toxic gases, vapors, or
29
30

1 fumes within the POTW in a quantity that may cause acute worker health
2 and safety problems.

3 (E) Any garbage that has not been properly pretreated and reduced
4 as provided for in the definition of ground garbage in § 51.001.

5 (F) Any ashes, cinders, sand, mud, straw, shavings, wood, metal,
6 glass, rags, feathers, tar, plastics, paunch manure, butchers' offal or any
7 other solid or viscous substances capable of causing obstruction to the
8 flow in sewers or other interference with the proper operation of the
9 sewerage system or the sewage treatment plant.

10 (G) Any waters or wastes having a pH less than 6.0 or greater than
11 12.0 or having any other corrosive property capable of causing damage or
12 posing hazards to the structures, equipment or personnel of the sewage
13 works.

14 (H) Any waters or wastes containing toxic substances, as defined under
15 Section 307 (b) and

16 (c) of the Clean Water Act in sufficient quantity to interfere with the
17 biological/biochemical process of the sewage treatment plant or that will
18 pass through the plant into the receiving waters or accumulate in the
19 sludges generated by the plant in amounts exceeding the standards set
20 forth by federal, state, interstate, or local statute, rule, regulation, or
21 ordinance, or will prevent the disposal of the sludges by the plant in
22 accordance with Section 405 of said Act.

23 (I) Any toxic radioactive isotopes, without a special permit. The
24 radioactive isotopes of I 131 and P 32 used in hospitals are not prohibited, if
25 they are properly diluted before being discharged into the sewerage
26 system, as further defined in the general rules and regulations.

27 (J) Pollutants, including oxygen-demanding pollutants (BOD, etc.),
28 released in a discharge at a flow rate and/or pollutant concentration
29 which, either singly or by interaction with other pollutants, will cause
30 interference with the POTW; including but not limited to any waters or
wastes that for a duration of 15 minutes or more have a concentration more

1 than five times the average concentration of BOD or suspended solids of
2 the user's sewage discharged during a 24- hour period of normal operation.

3 (K) Any waters or wastes containing suspended solids of such
4 character and quantity that unusual provisions, attention and expense
5 would be required to handle such materials at the sewage treatment
6 plant, its pumping stations or other facilities.

7 (L) Any waters or wastes containing incompatible pollutants as herein
8 described.

9 (M) Any waters or wastes containing toxic ions, compounds, or
10 substances in concentrations or amounts exceeding the limitations set forth
11 by the Board of Public Works and published in the general rules and
12 regulations.

13 (N) Any bulk waste, either industrial or domestic, without prior
14 written approval of the Superintendent.

15 (O) Any substances with objectionable color not removed by the
16 treatment process, such as, but not limited to dye waste and vegetable
17 tanning solutions.

18 (P) The City reserves the right to refuse, deny or revoke the connection of any
19 user in the
20 event the sewerage service requirements of the user, in the judgment of the
21 Superintendent could or would impose an excessive burden on the sewage
22 works or in the event the user is or has been in repeated violation of this
23 chapter. The City further reserves the right in the event of any emergency,
24 to restrict the allowable discharge received from any or all users of the
25 sewerage system during the time of such emergency.

26 (Q) Pollutants which create a fire or explosion hazard in the City's
27 treatment works or sewage system, including, but not limited to,
28 wastestreams with a closed cup flashpoint of less than 140° Fahrenheit, or
29 60° centigrade using test methods specified in 40 CFR 261.21.

30 (R) The introduction of inflow sources to any sanitary sewer.

1 (S) Construction of new combined sewers outside of the existing
2 combined sewer service area;

3 (T) Any new inflow/clear water connection of a new building that is not
4 separate and distinct from the sanitary waste connection, to facilitate
5 disconnection of the former should a separate storm sewer become
6 available.

7 **SECTION 12. Section 51.034 of Chapter 51 shall be deleted and**
8 **replaced as follows:**

9
10 § 51.034 RESPONSIBILITY FOR OBSTRUCTION OR DAMAGE
11 TO SEWERS.

12 If a public sewer becomes obstructed or damaged because any of the
13 aforementioned substances were improperly discharged, the person or
14 persons responsible for such discharges shall reimburse the City for the
15 expenses incurred by the City for cleaning out, repairing, rebuilding the
16 sewer or for any litigations or damage claims resulting therefrom,
17 including legal fees and court costs. For multiple offenders, each
18 responsible person shall be assessed a proportionate percentage of the
19 damage.

20 **SECTION 13. Section 51.035 of Chapter 51 shall be deleted and**
21 **replaced as follows:**

22 § 51.035 SUBMISSION OF DATA ON INDUSTRIAL WASTE,
23 INDUSTRIAL WASTE DISCHARGE PERMITS.

24 Users subject to the reporting requirements of this chapter shall retain,
25 and make available for inspection and copying, all records of information
26 obtained pursuant to any monitoring activities required by this chapter,
27 any additional records of information obtained pursuant to monitoring
28 activities undertaken by the user independent of such requirements, and
29
30

1 documentation associated with best management practices established
2 pursuant to this chapter. Records shall include the date, exact place,
3 method, and time of sampling, and the name of the person(s) taking the
4 samples; the dates the analyses were performed; who performed the
5 analyses; the analytical techniques or methods used; and the results of such
6 analyses. These records shall remain available for a period of at least three
7 years. This period shall be automatically extended for the duration of any
8 litigation concerning the user or the City, or where the user has been
specifically notified of a longer retention period by the City.

9 (A)(1) Any person proposing to discharge industrial waste into the City's
10 sewerage system either directly or indirectly, shall first fill out and file, with
11 the Superintendent, an industrial waste questionnaire, baseline
12 monitoring report or permit application, the form for which will be furnished
13 by the City, in which shall be set forth the quantity and characteristics of the
14 wastes discharged into the City's sewerage system. Any owner desiring to
15 establish a new connection to the public sewer or to establish a new
16 account with sewage works for the purpose of discharging industrial or
17 commercial waste shall 90 days prior to discharge first fill out and file with
18 the Superintendent such a questionnaire, baseline monitoring report or
19 permit application, which shall contain the actual or predicted data relating
20 to the quantity and characteristics of the wastes to be discharged. The
21 Superintendent will evaluate the data furnished by the potential user and
22 may require additional information, the Superintendent will determine
23 whether to issue an individual wastewater discharge permit. The
Superintendent may deny any application for an individual wastewater
discharge permit.

24 (2) An individual wastewater discharge permit shall include such
25 conditions as are deemed reasonably necessary by the Superintendent to
26 prevent pass through or interference, protect the quality of the water body
27 receiving the treatment plant's effluent, protect worker health and safety,
28 facilitate sludge management and disposal, and protect against damage to
29
30

1 the POTW.

2 (3) All rules and regulations of the sewer utility must also be followed by a
3 permitted user.

4 (B) Any user who plans to add, change, or modify manufacturing or
5 pretreatment processes shall first notify the Water Pollution Control Plant,
6 in writing at least 30 days prior to the planned change, and submit a new or
7 revised Permit application for review by the Superintendent.

8 (C) Industrial users must provide 30 days prior written notification to
9 the Superintendent of the WPC Plant before any changes are made to
10 their effluent.

11 (D) Any person who knowingly makes any false statement,
12 representation or certification in any application, report or other document
13 required by this chapter or other applicable regulations shall, upon
14 conviction, be punished by the imposition of a criminal penalty as required
15 by local and/or state statutes.

16 (E) All significant industrial users, whether categorical or non-
17 categorical, shall comply with the reporting requirements found at 40 CFR
18 403.12. Data collected to satisfy reporting requirements must be
19 representative of the conditions occurring during the period covered by the
20 report. All samples shall be collected using protocols, including appropriate
21 preservation, specified in 40 CFR Part 136.

22 (F) Written reports will be deemed to have been submitted on the date
23 postmarked by the United States Postal Service or the documented date
24 transferred to an alternate carrier such as Federal Express or UPS. For
25 hand delivered reports, the date of receipt shall govern.

26 (G) A penalty of \$50 may be assessed to any user for each report required
27 by this chapter, a permit, or order that is submitted 15 days or more after the
28 required submittal date. Actions taken by the City to collect late reporting
29 penalties shall not limit the City's authority to initiate other enforcement
30 actions for late reporting violations.

1 (H) To be covered by a general control mechanism issued by the
2 Superintendent under this section for indirect dischargers of a particular type
3 with similar characteristics requiring the same discharge limitations and the
4 same monitoring requirements, a significant industrial user must file a written
5 request for coverage that identifies:

- 6 (1) its contact information;
- 7 (2) production processes;
- 8 (3) the types of wastes generated;
- 9 (4) the location for monitoring all wastes covered by the general control
10 mechanism;
- 11 (5) any requests in accordance with 40 CFR 403.12(e)(2) for a
12 monitoring waiver for a pollutant neither present nor expected to be
13 present in the discharge (waiver is not effective in the general control
14 mechanism until after the City has provided written notice that the
15 waiver has been granted);
- 16 (6) any other information the City deems appropriate; and
- 17 (7) includes the signature of an authorized representative of the user
18 and the certification language included in § 51.032(L).

19 And the significant industrial user must retain a copy of the general control
20 mechanism documentation to support the City's determination that the user
21 is involved in the same or substantially similar type of operation, discharges
22 the same types of wastes, requires the same effluent limitations, and
23 requires the same or similar monitoring as the general control mechanism
24 category, and a copy of the user's written request for coverage, during the
25 effectiveness of the control mechanism and for a 3 year period following the
26 expiration of the general control mechanism. A significant industrial user
27 subject to a production-based categorical Pretreatment Standard, a
28 categorical Pretreatment Standard expressed as a mass pollutant
29 discharged per day, or based on the Combined Wastestream Formula or
30 Net/Gross calculations, may not be controlled through a general control
mechanism.

1
2 **SECTION 14. Section 51.036 of Chapter 51 shall be deleted and**
3 **replaced as follows:**

4
5 § 51.036 CONFIDENTIAL INFORMATION.

6 Information and data furnished to the City by any person shall be made
7 available to the public or other governmental agency without restriction
8 unless the person specifically requests and is able to demonstrate in
9 accordance with 40 CFR 2.204 and 327 IAC 12.1 that the release of such
10 information would divulge information and/or methods of production
11 entitled to protection as trade secrets or proprietary information of said
12 person. The above limitation to access has no application to the EPA or
13 the Indiana Department of Environmental Management and other
14 government agencies, which shall be entitled to immediate and unlimited
15 access to all information collected by the City under its pretreatment
16 program. Further, under no circumstances may the amount, frequency,
17 concentration, temperature, or characteristics of the discharge (to the
18 extent related to water quality) be considered confidential. All requests, by
19 the user, for confidentiality of information shall be made in accordance to
20 and governed by the provisions of 327 IAC 12.1 and 40 CFR 2.

21 **SECTION 15. A NEW Section 51.036.5 shall be added to Chapter 51**
22 **to read as follows:**

23 § 51.036.5 USER INVENTORIES FROM CONTRIBUTING
24 MUNICIPALITIES

25 Each Contributing Municipality must submit annually to the
26 Superintendent an updated inventory of all industrial users located
27 within the Contributing Municipality and provide the Superintendent
28 with access to all information that the Contributing Municipality
29 obtains from such industrial users regarding their discharges and
30

1 the industrial operations that produce such discharges.

2
3 **SECTION 16. Section 51.037 of Chapter 51 shall be deleted and**
4 **replaced as follows:**

5
6 § 51.037 CONTROL MANHOLES.

7 Any person who discharges or may discharge industrial wastes into a
8 public sewer via any means such as floor drains, sinks, catch basins, and
9 the like, shall be required by the Superintendent to construct and maintain,
10 at his own expense, one or more control manholes, at a specified location or
11 locations, to facilitate the observation, measurement and sampling of
12 owner's waste. Such manholes shall be constructed in accordance with the
13 standards and specifications of the City. The Superintendent may also
14 require the person to install and maintain in any such manhole, at said
15 person's expense, an approved volume-measuring device. Plans and/or
16 shop drawings for the installation of control manholes and related
equipment shall be approved by the Superintendent before any construction
is begun.

17
18 **SECTION 17. Section 51.038 of Chapter 51 shall be deleted and**
19 **replaced as follows:**

20
21 § 51.038 GREASE AND SAND TRAPS.

22 Whenever the Superintendent determines that interceptors or traps are
23 needed to protect the City's sewerage collection system or the City's
24 treatment plant from grease, oil, sand or similar substances occurring in
25 any person's sewage and so notifies said person, then such traps shall be
26 promptly installed by said person, at said person's expense and shall be so
27 maintained by that person that none of such substances can be discharged
28 or carried over into the public sewers. All traps or interceptors shall meet
29 the City's standards as to construction, location and installation.
30

1
2 **SECTION 18. Section 51.039 of Chapter 51 shall be deleted and**
3 **replaced as follows:**
4

5 § 51.039 INSPECTIONS; WASTE SAMPLING.

6 (A) (1) The Superintendent or his authorized representative,
7 or agent, shall have a right to enter any User's premises to carry
8 out the objectives of this Chapter, including, but not limited to
9 inspection, measuring and sampling, and records examination
10 and copying. Any user may be subject to periodic and random
11 inspections by the City for the purpose of determining compliance with
12 permit limitations, solvent management plans or spill prevention plans,
13 identifying dilution streams or to categorize regulated processes. These
14 inspections may consist of monitoring waste streams, inspection of the
15 premises, inspection and/or copying of production records, pretreatment
16 operating records and other records or data deemed necessary by the
17 inspector for the purposes stated above.

18 (2) The Superintendent shall have the right to set up on the user's
19 property, or require installation of, such devices as are necessary to
20 conduct sampling and/or metering of the user's operations.

21 (3) The Superintendent may require the user to install monitoring
22 equipment as necessary. The facility's sampling and monitoring
23 equipment shall be maintained at all times in a safe and proper operating
24 condition by the user at its own expense. All devices used to measure
25 wastewater flow and quality shall be calibrated at least once per year to
26 ensure their accuracy.

27 (B) All wastewater samples must be representative of the user's
28 discharge. Control manholes and or flow measurement installations shall be
29 properly operated, kept clean, and maintained in good working order at all
30 times. The failure of a user to keep such facilities in good working order
shall not be grounds for the user to claim that sample and or flow results are

unrepresentative if its discharge. The installation, operation and maintenance of the sampling facilities shall be the responsibility of the user discharging the wastes and shall be subject to the approval of the Superintendent. Access to the sampling facilities shall be granted, at all times, to the Superintendent.

(C) (1) Where any user's operations have security measures in force which require proper identification and clearance before entry onto user's property is granted, such user shall make the necessary arrangements with their security personnel that upon showing of proper identification personnel from the City shall be permitted to enter, without delay, for the purpose of observing or monitoring of wastes being discharged at a given point or points or that user shall install suitable control manholes outside of the security area or areas, which at all times will be immediately available to City personnel.

(2) 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 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.

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

SECTION 19. Section 51.040 of Chapter 51 shall be deleted and replaced as follows:

§ 51.040 WASTE ANALYSIS PROCEDURES AND CHARGES.

All pollutant analyses, including sampling techniques, required under this chapter or by any industrial wastewater discharge permit, shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where

1 the EPA determines that the Part 136 sampling and analytical
2 techniques are inappropriate for the pollutant in question, sampling and
3 analyses shall be performed by using validated analytical methods of
4 any other applicable sampling and analytical procedures, including
5 procedures suggested by the City or other parties approved by EPA.

6 (A) *Charges to users.* When surveillance sampling is conducted by the
7 City, a split shall be made available for analysis by user upon request.
8 Analyses made by the City at the request of the user shall be charged to
9 the user according to the sewage works' standard work order billing
10 procedure.

11 (B) *Charges to governmental agencies.* Analyses performed by the
12 Water Pollution Control Plant Laboratory for any governmental agency, or
13 political subdivision of a city, county or state shall be billed to such agency
14 or subdivision for direct labor and expenses according to the sewage
15 works' standard work order billing procedure. Analyses performed for
16 other agencies shall not have priority over the regular Water Pollution
17 Control Plant analyses unless in the judgment of the Superintendent the
18 urgency of the analyses warrants such priority.

19 (C) *Charges of outside services.* Analyses performed by the Water
20 Pollution Control Plan Laboratory for any person shall be billed at the
21 rate established by the Water Pollution Control Plant Laboratory for such
22 analyses.

23 (D) *Charges collected.* All waste analysis charges collected under
24 divisions (A) through (B) above shall be recorded as credits to the operating
25 costs of the Water Pollution Control Plant and a quarterly accounting thereof
26 shall be forwarded to the Superintendent. All such charges are to be used to
27 defray the operation and maintenance expenses incurred by the Water
28 Pollution Control Plant in performing said analyses.

29 (E) Compliance reports must be based upon sampling and analysis
30 performed during the period covered by the report, which data are
representative of conditions occurring during the reporting period. Grab

1 samples must be used for pH, cyanide, total phenols, oil and grease, sulfide,
2 and total volatile organic compounds. Frequency of monitoring will be
3 required as necessary to assess and assure compliance with applicable
4 pretreatment standards and requirements. For all other pollutants, 24-hour
5 composite samples must be obtained through flow-proportionate composite
6 sampling techniques, unless time-proportional composite sampling or grab
7 sampling is authorized by the control authority. Where time proportional
8 composite sampling or grab sampling is authorized by the control authority,
9 the samples must be representative of the discharge and the decision to
10 allow the alternative sampling must be documented in the industrial user file
11 for the facility. Using protocols (including appropriate preservation) specified
12 in 40 CFR Part 136 and appropriate United States Environmental Protection
13 Agency guidance, multiple grab samples collected during a 24-hour period
14 may be composited prior to the analysis as follows: for cyanide, total
15 phenols, and sulfides the samples may be composited in the laboratory or in
16 the field; for volatile organics and oil and grease the samples may be
17 composited in the laboratory. Composite samples for other parameters
18 unaffected by the compositing procedures as documented in approved
19 United States Environmental Protection Agency methodologies may be
20 authorized by the control authority, as appropriate.

21 (F) For sampling required in support of baseline monitoring and 90-day
22 compliance reports, a minimum of four (4) grab samples must be used for
23 pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic
24 compounds for facilities for which historical sampling data do not exist; for
25 facilities which historical sampling data are available, the control authority
26 may authorize a lower minimum. For periodic reports for users subject to
27 categorical standards and reporting requirements for users not subject to
28 categorical pretreatment standards, the control authority shall require the
29 number of grab samples necessary to assess and assure compliance by
30 users with applicable pretreatment standards and requirements.

SECTION 20. Section 51.041 of Chapter 51 shall be deleted and replaced as follows:

§ 51.041 USE OF REPRESENTATIVE ANALYSIS.

Until an adequate analysis of a representative sample of user's wastes has been obtained, the City may, for the purpose of this chapter, make a determination of the character and concentration of the wastes by using data based on analysis of similar processes or data for this type of business that are available from the United States Environmental Protection Agency or from industry-recognized authoritative sources. This method, if selected by the City, shall continue at the City's discretion or until an adequate analysis has been made.

SECTION 21. Section 51.110 of Chapter 51 shall be deleted and replaced as follows:

§ 51.110 RULES AND REGULATIONS; BOARD OF WORKS
AUTHORITY.

The Board of Public Works of the City shall, in accordance with the statutes of the state, and subject to the provisions and requirements of this chapter, make and enforce appropriate rules and regulations for the safe, economical and efficient management and operation of the City's sewage works, for the construction and use of sewers, building sewers, appurtenances and connections to the sewerage system; for the regulation, collection and refunding of rates and charges for sewerage service; and for the implementation and enforcement of the provisions of this chapter.

1 **SECTION 22. Section 51.111 of Chapter 51 shall be deleted and**
2 **replaced as follows:**

3
4 § 51.111 ENFORCEMENT.

5 (A) Those provisions of this chapter not specifically dealt with elsewhere
6 shall be enforced by the Director of City Utilities and such deputies as
7 Director, with the approval of the Board of Public Works, may be appointed
8 for such purposes. Whenever said Director or any such deputy shall deem it
9 appropriate to charge any person with a violation(s) of this chapter, he/she
10 shall issue to such person a notice of violation and/or summons, which shall
11 be processed according to the provisions of IC 34-28-5 and sewer rules and
12 regulations, or pursuant to an ordinance adopted in accordance with IC 36-
13 1-6-9.

14 (B) The remedies provided for in this ordinance are not exclusive. The
15 City may take any, all, or any combination of these actions against a
16 noncompliant user. Enforcement of pretreatment violations will generally be
17 conducted in accordance with the City's enforcement response plan as
18 adopted by the Board of Public Works. However, the City may take other
19 action against any user when the circumstances warrant. Further the City is
20 empowered to take more than one enforcement action against any
21 noncompliant user.

22 (C) When the Superintendent finds that a user has violated, or continues
23 to violate, any provision of this chapter, an individual wastewater discharge
24 permit, or order issued hereunder, or any other pretreatment standard or
25 requirement, the Superintendent may petition the Allen County Superior
26 Court, Misdemeanor and Traffic Division, through the City Attorney for the
27 issuance of a temporary or permanent injunction, as appropriate, which
28 restrains or compels the specific performance of the individual wastewater
29 discharge permit, order, or other requirement imposed by this chapter on
30 activities of the user. The Superintendent may also seek such other action as
 is appropriate for legal and/or equitable relief, including a requirement for

1 the user to conduct environmental remediation. A petition for injunctive
2 relief shall not be a bar against, or a prerequisite for, taking any other action
3 against a user.

4 (D) The Superintendent may after informal notice to the discharger,
5 immediately and effectively halt or prevent any discharge of pollutants to the
6 POTW which reasonably appears to present an imminent endangerment to
7 the health or welfare of persons. The POTW may also, after notice to the
8 affected industrial users and an opportunity to respond, halt or prevent any
9 discharge to the POTW which presents or may present an endangerment to
10 the environment or which threatens to interfere with the operation of the
11 POTW.

12 (E) If the violation has not been corrected pursuant to the requirements set
13 forth in the administrative order, or after a decision upholding the appeal of an
14 administrative order, the Superintendent, or his duly authorized
15 representative, shall have the authority to enter upon the user's
16 premises and are authorized to take any and all measures necessary to
17 abate the violation, including physically severing the sewer connection,
18 and/or terminating water service to the facility. It shall be unlawful for
19 any person, owner, agent or person in possession of any premises to
20 refuse to allow the government agency or designated contractor to enter
21 upon the premises for the purposes set forth above. Penalties shall
22 include but are necessarily limited to those found in this Chapter.

23 (F) The Superintendent shall at least annually publish notice in a
24 newspaper of general circulation that provides meaningful public notice in the
25 jurisdiction served by the POTW, the industrial users which, at any time
26 during the previous 12 months, were in significant noncompliance with
27 applicable pretreatment requirements.
28
29
30

1 **SECTION 23. Section 51.112 of Chapter 51 shall be deleted and**
2 **replaced as follows:**

3
4 § 51.112 ACCOUNTS FOR SEWERAGE WORKS REVENUE
5 BONDS

6 The City Controller shall establish and maintain, for as long as user
7 charges and surcharges are collected under the rate schedule instituted
8 herein, accounts relating to the issuance of sewerage works revenue bonds
9 now outstanding and further in accordance with the laws of the State of
10 Indiana relative to the deposit and disbursement of public funds.

11 **SECTION 24. Section 51.999 of Chapter 51 shall be deleted and**
12 **replaced as follows:**

13 § 51.999 PENALTY FOR VIOLATION.

14 (A) Any person who violates or fails to comply with any provision of
15 this chapter or of the rules and regulations of the Board of Public Works
16 or administrative orders pertaining thereto, shall be subject to a fine of up
17 to \$2,500 per day as set out at § 10.99 of the City of Fort Wayne Code of
18 Ordinances or as otherwise provided by IC 34-28-5. Each day that such
19 violation(s) or noncompliance continues shall constitute a separate offense.

20 (B) A user who has violated, or continues to violate, any provision of
21 this chapter, an individual wastewater discharge permit, or order issued
22 hereunder, or any other pretreatment standard or requirement shall be
23 liable to the City for a minimum civil penalty of \$1,000 per violation, per
24 day. In the case of a monthly or other long-term average discharge limit,
25 penalties shall accrue for each day during the period of the violation.

26 (C) The Superintendent may recover reasonable attorneys' fees, court
27 costs, and other expenses associated with enforcement activities,
28 including sampling and monitoring expenses, and the cost of any actual
29 damages incurred by the City.
30

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

7 (E) Filing a suit for civil penalties shall not be a bar against, or a
8 prerequisite for, taking any other action against a user.

9 (F) Upset.

10 (1) For the purposes of this section, **UPSET** means an exceptional
11 incident in which there is unintentional and temporary noncompliance with
12 categorical pretreatment standards because of factors beyond the
13 reasonable control of the user. An upset does not include noncompliance to
14 the extent caused by operational error, improperly designed treatment
15 facilities, inadequate treatment facilities, lack of preventive maintenance, or
16 careless or improper operation.

17 (2) An upset shall constitute an affirmative defense to an action
18 brought for noncompliance with categorical pretreatment standards if the
19 requirements of division (F)(3), below, are met.

20 (3) A user who wishes to establish the affirmative defense of
21 upset shall demonstrate, through properly signed, contemporaneous
22 operating logs, or other relevant evidence that:

23 (a) An upset occurred and the user can identify the cause(s) of the upset;

24 (b) The facility was at the time being operated in a prudent and
25 workman-like manner and in compliance with applicable operation and
26 maintenance procedures; and

27 (c) The user has submitted the following information to the
28 Superintendent within 24 hours of becoming aware of the upset if this
29 information is provided orally, a written submission must be provided
30 within five days:

1. A description of the indirect discharge and cause of noncompliance;

1 2. The period of non-compliance, including exact dates and
2 times or, if not corrected, the anticipated time the noncompliance is
3 expected to continue; and

4 3. Steps being taken and/or planned to reduce, eliminate, and
5 prevent recurrence of the noncompliance.

6 (4) In any enforcement proceeding, the user seeking to establish the
7 occurrence of an upset shall have the burden of proof.

8 (5) Users shall have the opportunity for a judicial determination on
9 any claim of upset only in an enforcement action brought for
10 noncompliance with categorical pretreatment standards.

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

17 **SECTION 25. That the City is directed to take all action necessary
18 and proper for the implementation of this Ordinance.**

19 **SECTION 26. That this Ordinance shall be effective after passage
20 and any necessary approval by the Mayor.**

21
22 _____
23 Council Member

24 **APPROVED AS TO FORM AND LEGALITY:**

25
26 _____
27 Carol Helton
28
29
30

MEMO

To: City Council

From: Brandon Almas/Brian Robinson

Re: Changes to Ch. 51 of Fort Wayne City Code: Sewers

Date: February 22, 2018

I. Background

The City of Fort Wayne ("City") operates an industrial wastewater pretreatment program under state and federal law. To do so, the City must maintain a National Pollution Discharge Elimination System ("NPDES") permit. The City operates its pretreatment program under NPDES Permit No. IN0032191 (the "Permit"). Under the Clean Water Act, NPDES permits may not be issued for a term longer than five (5) years.

The City's most recent Permit was issued February 18, 2016. One of the conditions of the Permit required the City to re-evaluate its Sewer Use Ordinance ("SUO") within six (6) months of the date of issuance to ensure that it provides adequate authority to fully implement the City's pretreatment program. The City was also required to conduct a technical re-evaluation of its local limits in accordance with 40 CFR 122.44(j)(2)(ii).

As required, the City timely reviewed the terms of its SUO and made several updates based upon the recommendations and requirements of the U.S. Environmental Protection Agency ("EPA"). The EPA has reviewed all of the City's proposed changes to the SUO. On January 4, 2018, the EPA issued tentative approval of the changes, subject to the adoption of the changes by Common Council.

The purpose of this Memorandum is to summarize the changes that were made and provide a brief explanation regarding the reasons for the change.

II. Summary of Changes

The majority of changes to the SUO were stylistic/wording changes intended to provide clarity and consistency. Ultimately, these changes do not impact the implementation of the City's pretreatment program. Examples of these types of changes include capitalizing words such as "City" throughout the SUO, deleting the term "person" and using the term "User" consistently throughout, and cleaning up citations to federal law.

Other relatively minor changes include the addition of new definitions to the SUO at the EPA's request and various wording changes that should have no substantive impact on the program or its users. We also added a new section 51.036.5, which requires nearby municipalities that discharge sewage to the City's wastewater plant to provide an annual inventory of industrial users within their areas. At Section 51.040, we have added some

language regarding compliance monitoring at the request of the EPA. Similarly, at Section 51.111, we added subsections (D) and (E), which authorize the City to halt discharges posing an imminent danger to the health and welfare of our citizens and to enter onto an industrial user's property to prevent such discharges, if necessary. These changes were made at the direction of the EPA.

The two most significant changes to the SUO include language incorporating all federal regulations in effect up to the date of approval of this ordinance and language regarding our enforcement authority for Users that divert some or all of their sewage to another treatment plant. As to the first change, we have incorporated some new language into the definition of "CFR" in section 51.001 to clarify that "CFR", as used in the ordinance, includes all regulations in effect as of the date of approval of this ordinance. Similar language incorporating all federal regulations and pretreatment standards was included in Section 51.032.

This change is important because of a new EPA rule regarding dental amalgam that took effect last year. That rule requires dental offices to take measures to prevent the discharge of amalgam such as the use an amalgam separator and to submit a report of compliance, among other things. The proposed changes to the SUO incorporate the new rule by reference and provide the City with authority to enforce violations of the rule if necessary. This rule could impact several local dentists and dental offices.

The change regarding the diversion of sewage was intended to clarify the City's ability to enforce violations of the SUO for users that send a portion of their sewage to another wastewater treatment plant. This change is captured in § 51.030. Previously, it was unclear if the City was the appropriate body to enforce those types of violations, which was a concern, particularly in the Southwest region of the City's service area. This change clarifies that the City does have enforcement authority as to its permittees, even if all of the sewage does not come to the City's wastewater plant.

Attached to this Memorandum is an itemization of every other proposed change to the SUO. The itemization summarizes what each change is and the general reason for the change.

III. Recommendation

Over the past two (2) years, the City has worked diligently with the EPA to improve the SUO to help ensure the safety of the City's residents. We believe the changes will enhance the City's ability to operate the pretreatment program in a safe and efficient manner. For these reasons, we recommend adoption of the changes and respectfully request that they be approved.

**City of Fort Wayne
Proposed Sewer Use Ordinance Revisions**

Citation	Change to Existing Ordinance
Definitions - § 51.001	Changed capitalization of “City” and/or “City Utilities” where appropriate in Definition Section and throughout SUO as required by U.S. EPA.
Definitions - § 51.001	Added definition of “APPROVAL AUTHORITY” consistent with federal rules as required by U.S. EPA.
Definitions - § 51.001, “CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD”	Clarified existing definition.
Definitions - § 51.001, “CFR”	Amended the definition to mean the latest revision of the Code of Federal Regulations in effect as of the latest revision to Chapter 51 of the Code of Ordinances.
Definitions - § 51.001, “INDUSTRIAL USER”	Amended the definition consistent with U.S. EPA directive and federal law
Definitions - § 51.001, “SIGNIFICANT INDUSTRIAL USER”	Amended the definition consistent with the federal definition and clarified references to “user.”
Definitions - § 51.001, “CONTRIBUTING MUNICIPALITY”	Added definition of this term to help clarify the relationship of the City to other municipalities that are contract users.
Definitions - § 51.001, “EFFLUENT”	Amended the definition to remove the reference to “receptacle.”
Definitions - § 51.001, “EMERGENCY”	Amended typographical error in the definition.
Definitions - § 51.001	Added the definition of “EPA.”
Definitions - § 51.001	Added the definition of “EXISTING SOURCE” upon the direction of U.S. EPA.
Definitions - § 51.001, “GRAB SAMPLE”	Amended the definition upon the direction of U.S. EPA.
Definitions - § 51.001, “INDIRECT	Amended the definition to clarify and include

City of Fort Wayne
Proposed Sewer Use Ordinance Revisions

Citation	Change to Existing Ordinance
DISCHARGE or DISCHARGE"	federal citation.
Definitions - § 51.001, "INTERFERENCE"	Amended the definition to be consistent with the federal rule, including addition of a reference to the Marine Protection, Research and Sanctuaries Act consistent with U.S. EPA directive, and relabeled subsections.
Definitions - § 51.001	Added the definition of "MEDICAL WASTE" upon the direction of U.S. EPA.
Definitions - § 51.001	Added the definition of "MONTHLY AVERAGE" upon the direction of U.S. EPA.
Definitions - § 51.001	Added the definition of "MONTHLY AVERAGE LIMIT" upon the direction of U.S. EPA.
Definitions - § 51.001, "NPDES PERMIT"	Amended the definition to narrow the reference to the City of Fort Wayne's permit upon the direction of U.S. EPA, and to correct the citation included with "the Act."
Definitions - § 51.001, "PASS THROUGH"	Amended the definition to reference "Water Pollution Control Plant" rather than "POTW."
Definitions - § 51.001, "PERSON"	Amended the definition to remove "copartnership and firm."
Definitions - § 51.001, "pH"	Amended the definition to correct a grammatical error.
Definitions - § 51.001, "PRETREATMENT STANDARD"	Amended the definition to clarify and conform with format of other definitions.
Definitions - § 51.001, "PUBLICLY OWNED TREATMENT WORKS or POTW"	Amended the definition consistent with federal law.
Definitions - § 51.001	Added the definition of "REGIONAL ADMINISTRATOR" upon the direction of U.S. EPA.
Definitions - § 51.001	Added the definition of "SEPTIC TANK WASTE" upon the direction of U.S. EPA.

**City of Fort Wayne
Proposed Sewer Use Ordinance Revisions**

Citation	Change to Existing Ordinance
Definitions - § 51.001, "SEWAGE"	Amended the definition to clarify it includes but does not exclude industrial wastes.
Definitions - § 51.001, "PUBLIC SEWER"	Reworded the definition and added the phrase "subject to the provisions of this Chapter 51."
Definitions - § 51.001, "STORM SEWER"	Reworded definition to be consistent with stormwater ordinance.
Definitions - § 51.001, "SEWER ENGINEER"	Changed the definition to mean the City's Facility Engineer or his or her designee.
Definitions - § 51.001, "SHALL"	Made nonsubstantive revisions.
Definitions - § 51.001, "SIGNIFICANT NONCOMPLIANCE"	Moved the definition here from Rule 11 (Wastewater Utility Rules) and amended the definition consistent with the federal rules.
Definitions - § 51.001, "STANDARD METHODS"	Amended the definition to update same and include abbreviations.
Definitions - § 51.001	Added the definition of "STORMWATER" upon the direction of U.S. EPA. The definition matches the definition in our stormwater ordinance.
Definitions - § 51.001, "SUPERINTENDENT"	Reworded the definition and changed "duly authorized representative" to "designee" consistent with the original intent.
Definitions - § 51.001, "USER or Industrial User"	Removed the definition and added a definition of "USER" to clarify "user" as the more general term as distinguished from "industrial user" as the more specific term.
Definitions - § 51.001	Added the definition of "WASTEWATER" upon the direction of U.S. EPA.
§ 51.004, ACCIDENTAL DISCHARGES	Amended § 51.004(B), and (D) and added (E), (F), (G), to include slug load discharge restrictions and clarification regarding timing of notice of a slug load or accidental discharge as required by federal regulations upon the direction of U.S. EPA.
§ 51.015, REQUIREMENTS FOR	Added "sump pump" to list of types of

City of Fort Wayne
Proposed Sewer Use Ordinance Revisions

Citation	Change to Existing Ordinance
CONNECTION TO PUBLIC SEWERS	disconnection the City may require.
§ 51.030, PRIOR APPROVAL FOR CERTAIN WASTES	Amended to include new subsections (B) and (C) to address diversion of sewage to privately owned treatment works; amended newly labeled subsection (G), (J) and (K) to remove unnecessary notes and/or clarify the requirements.
§ 51.031(A), (C), (D), and (E)	In accordance with directive from U.S. EPA: amended subsection (A) to clarify applicability to industrial users; amended subsection (C) to change reference from “person” to “user”; removed “(latest version)” in subsection (D) consistent with change to definition of “CFR”; and changed subsection (E) to clarify applicability to all industrial users;
§ 51.032(A), (B), (C)(2), (F)(1), (G)(2), (I)(2), (J)(1) and (3)	Amended subsection (A) to clarify that the City shall enforce its ordinance on all industrial users in its service area or within service area of any contract customers. Amended subsection (B) to correct citation error and amended language regarding incorporation of Categorical Pretreatment Standards consistent with the new definition of “CFR.” Clarified applicability of subsection (C)(2) to “Categorical industrial users”. Removed unnecessary note in subsections (F)(1) and (I)(2). Changed the timing of notification requirement in subsection (G) consistent with §51.035(C), and added “under” in (G)(2), at the direction of U.S. EPA. Capitalized “State” in subsection (J)(2) and (J)(3). Made other minor revisions.
§ 51.033(D), (H), (M), (R), (S), and (T)	Clarified the prohibited discharges in subsections (D), (H) and (M) consistent with federal law upon the direction of U.S. EPA. Added new subsections (R), (S), and (T) to incorporate the restrictions from the City’s

City of Fort Wayne
Proposed Sewer Use Ordinance Revisions

Citation	Change to Existing Ordinance
	NPDES Permit, Attachment A, subsection V.
§ 51.035(A), (B), (C), (E), and (H)	Amended the title of this section to include "INDUSTRIAL WASTE DISCHARGE PERMITS." Amended subsection (A) to clarify the requirement to fill out industrial waste questionnaire. Changed "user" to "person" in subsection (B) and included "at least 30 days prior to the planned change" consistent with §51.032(G) along with clarifying changes. Specified that notification required in subsection (C) must be made 30 days prior to making changes to the effluent. Deleted the extension of time allowed by subsection (E) as directed by U.S. EPA. Added subsection (H) to include the general control mechanism application and compliance requirements as directed by U.S. EPA.
§ 51.036	Corrected citations and clarified the confidentiality requirements, including nonapplicability of access restrictions to the Indiana Department of Environmental Management, as directed by U.S. EPA.
§ 51.036.5	Added new section requiring Contributing Municipality (a contract customer) to provide the City with an annual updated inventory of its industrial users that discharge to the Contributing Municipality's sewer system.
§ 51.039(A)(1), (B), (C)(1) and (2)	Clarified Superintendent's right to enter user's premises to inspect, measure and sample, examine records and copy records in subsection (A)(1). Changed "person" to "user(s)" in (A), (B), and (C)(1) and (2), and corrected typographical error in subsection (C)(2).
§ 51.040(A), (C), (E), and (F)	Deleted alternate analysis methods in subsection (A) upon the direction of U.S. EPA. Corrected typographical error in subsection (C). Added subsections (E) and (F) to include compliance monitoring

**City of Fort Wayne
Proposed Sewer Use Ordinance Revisions**

Citation	Change to Existing Ordinance
	requirements specified by U.S. EPA.
§ 51.041	Makes minor word change concerning use of substitute waste characterization.
§ 51.111(C), (D), (E), and (F)	Upon U.S. EPA's directive: added (D) and (E) regarding Supervisors right to enter to halt discharges posing imminent endangerment, and penalties for refusal to allow entrance; and added subsection (F), requirement to annually public notice names of users that were in significant noncompliance in previous 12 months.
§ 51.112	Re-titled this section "ACCOUNTS FOR SEWERAGE WORKS REVENUE BONDS"; deleted reference to Sewerage Works Improvement Fund since that fund does not exist.

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