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(Repealed)

**ARTICLE 8. WATERWORKS RATES AND CHARGES.**

(Repealed)

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## CHAPTER 9

### UTILITIES

#### ARTICLE 1. GENERAL PROVISIONS.<sup>169</sup>

##### **Sec. 9-1 Authority To Establish Water Service.<sup>170</sup>**

The City may regulate the furnishing of water to the public. It may also establish, maintain, and operate a waterworks system.

##### **Sec. 9-2 Authority To Establish a Sewage System.<sup>171</sup>**

The City may erect, maintain, and operate a sewage works plant for the collection, treatment, and disposal of sewage.

##### **Sec. 9-3 Adoption of State Code.**

Indiana Code 36-9-25-1, *et seq.*, Sanitation Department in Certain Cities, as published and hereafter amended, is adopted and incorporated by referenced into the *Terre Haute City Code*, shall supplement the terms and provisions of this Chapter 9, and shall throughout the Sanitary District which includes all territory within the corporate boundaries of the City of Terre Haute and any territory, addition platted subdivision, or unplatted land lying outside the corporate boundaries of the City of Terre Haute that has been taken into the Sanitary District or has been connected with the Terre Haute public sanitation system and discharges sewage or drainage into the Terre Haute sanitation system. (Gen. Ord. No. 31, 2004, 12-09-04)

##### **Sec. 9-4 Procedures To Resolve Disputes.**

In the event the charges to a user of the Wastewater Utility are in dispute, the user shall contact the Wastewater Utility Specialist and seek review of the disputed charges. In the event the decision rendered by the Wastewater Utility Specialist does not resolve the dispute, the user may provide a written request to the Sanitary District Commission to review the decision of the Wastewater Utility Specialist. The Sanitary District Commission may, at its discretion, review the decision of the Wastewater Utility Specialist and affirm, modify or rescind the decision of the Wastewater Utility Specialist, which decision shall be a final decision of the Wastewater Utility and shall be implemented. In the event the Sanitary District Commission should refuse to review the decision of the Wastewater Utility Specialist, the decision of the Specialist shall become the final decision and shall be implemented. (Gen. Ord. No. 31, 2004, 12-09-04)

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<sup>169</sup> *I.C.* § 36-9-2-15, authorizes a city to furnish or regulate the furnishing of utility services to the public.

<sup>170</sup> *I.C.* § 36-9-2-14, authorizes the furnishing of water by a city to the public.

<sup>171</sup> *I.C.* § 36-9-6-11, addresses the right to operate a sewage plant.



## ARTICLE 2. SEWAGE USAGE AND INDUSTRIAL PRETREATMENT.<sup>172</sup>

### Division I. General Provisions.

#### **Sec. 9-5 Purpose and Policy.**

This Article sets forth uniform requirements for all users of the sewer system components of the Publicly Owned Treatment Works (POTW) of the City of Terre Haute, Indiana and to enable the City of Terre Haute to comply with all applicable State and Federal laws, including the Clean Water Act and the General Pretreatment Regulations. The objectives of this Ordinance are:

- a. To regulate the discharge to, and use of, public and private sewers within the service area of the Publicly Owned Treatment Works of Terre Haute; and the installation and construction of service connections to building sewers within the Terre Haute sewer service area;
- b. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- c. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- d. To protect the POTW, all POTW personnel and the general public from unregulated discharge of wastewater whose constituents could endanger the POTW system and the health and welfare of the POTW personnel or the general public;
- e. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works;
- f. To enable the City of Terre Haute, Indiana to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject; and
- g. To establish a Pretreatment Program for the regulation and control of industrial discharges through the issuance and enforcement of Industrial Wastewater Discharge Permits that set forth the terms, conditions and regulations under which non-compatible wastewaters may be discharged into the City's POTW.

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<sup>172</sup> Editor's Note: Ord. No. 7, 1961 was passed on September 26, 1961 and set forth public and private sewer, drain and discharge regulations. Ord. No. 6, 1961 was amended by Gen. Ord. No. 12, 1970 as amended on June 3, 1970. On March 10, 1977 the Council passed Ord. No. 3, 1976 making reference to Ord. No. 6, 1961 and not Ord. No. 12, 1970. Gen. Ord. No. 3, 1982 passed May 13, 1982 amended Gen. Ord. No. 3, 1976. Gen. Ord. No. 1, 1983 passed April 15, 1983 amended Gen. Ord. No. 3, 1976. Gen. Ord. No. 1, 1986 passed February 20, 1986 amended Gen. Ord. No. 3, 1976. Gen. Ord. No. 14, 1990, passed July 10, 1991 amended codified § 913.05 of the *1/94 Code*. Gen. Ord. No. 1, 1999, passed on February 11, 1999 amended Gen. Ord. No. 9, 1995, passed on November 9, 1995. Gen. Ord. No. 13, 2001, passed on June 14, 2001 amended codified Chapter 9 of the *City Code*.

This Article shall apply to all users of the Publicly Owned Treatment Works. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-6 Administration.**

Except as otherwise provided herein, the Director of the Terre Haute Wastewater Utility (Director) shall administer, implement, and enforce the provisions of this Article. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other POTW personnel, such delegation(s) shall be in writing and available for public review. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-7 Abbreviations.**

The following abbreviations, when used in this Article, shall have the designated meanings:

|   |       |   |
|---|-------|---|
| * | BMP   | Best Management Practice                        |
| * | CBOD  | Carbonaceous Biochemical Oxygen Demand          |
| * | CIU   | Categorical Industrial User                     |
| * | CFR   | Code of Federal Regulations                     |
| * | COD   | Chemical Oxygen Demand                          |
| * | EPA   | U.S. Environmental Protection Agency            |
| * | gpd   | gallons per day                                 |
| * | IDEM  | Indiana Department of Environmental Management  |
| * | IU    | Industrial User                                 |
| * | mg/L  | milligrams per liter                            |
| * | NPDES | National Pollutant Discharge Elimination System |
| * | NSIU  | Non-significant Industrial User                 |
| * | NSCIU | Non-significant Categorical Industrial User     |
| * | POTW  | Publicly Owned Treatment Works                  |
| * | RCRA  | Resource Conservation and Recovery Act          |
| * | SIC   | Standard Industrial Classification              |

- \* SIU                    Significant Industrial User
- \* SNC                    Significant Non-Compliance
- \* TBOD                  Total Biochemical Oxygen Demand
- \* TSS                    Total Suspended Solids (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-8            Definitions.**

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Article, shall have the meanings hereinafter designated:

a.     **Act or "the Act"**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended.

b.     **Ammonia (or NH<sub>3</sub>-N)**. Ammonia measured as nitrogen. The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of 40 C.F.R. § 136.3.

c.     **Applicable Pretreatment Standard**. Any pretreatment limit or prohibitive standard (federal, state and/or local) contained in the Ordinance and considered to be most restrictive with which non-domestic users will be required to comply.

d.     **Approval Authority**. The US Environmental Protection Agency (EPA), Region 5.

e.     **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 comprehensive measures to assure long-term 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 partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) 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.
- (4) The individuals described in paragraphs 1 through 3, above, may designate another 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, and the written authorization is submitted to the Director.

f. **Average Monthly Discharge Limitation.** The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

g. **Average Weekly Discharge Limitation.** The highest allowable average of "daily discharges" over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week.

h. **Beneficial Uses.** These uses include, but are not limited to, domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other uses, both tangible or intangible, as specified by State or Federal law.

i. **Best Management Practice or BMP.** The following measures to prevent or reduce the pollution of local, state and federal waters. BMPs may be employed, for example, to control plant site runoff; spills, leaks and slug discharges; sludge or waste disposal; or drainage from raw materials storage areas resulting from manufacturing; commercial; mining or silviculture activities.

- (1) Schedule of activities;
- (2) Prohibition of a specific practice;
- (3) Treatment requirements;
- (4) Operation and maintenance procedures
- (5) Use of containment facilities;
- (6) Other practices as approved by the Approval Authority.

j. **Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l.)

k. **Board of Public Works and Safety.** The Board of Public Works and Safety of the City of Terre Haute, Indiana, or any duly authorized officials or boards acting in its behalf.

l. **Building (or House) Drain.** The lowest horizontal piping of building drainage system which receives the discharge from waste, and other drainage pipes inside the walls of the building and conveys it to a point approximately five (5) feet outside the foundation wall of the building.

m. **Building Sewer (or Drain) – Sanitary.** A building drain which conveys sanitary or industrial sewage only.

n. **Building Drain – Storm.** A building drain which conveys storm water or other clean water draining, but not wastewater.

o. **Building Sewer (lateral).** A pipe which is connected to the building (or house) drain at a point approximately five (5) feet outside the foundation wall of the building and which conveys the building's discharge from that point to the public sewer, to a septic tank or other place of disposal.

p. **Categorical Industrial User.** An industrial user subject to the categorical pretreatment standards in 40 CFR 403.6 and 40 CFR chapter I, subchapter N.

q. **Categorical Pretreatment Standards (Categorical Standards).** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act, which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

r. **Chemical Oxygen Demand.** A measure of the oxygen equivalent of that portion of organic matter in wastewater that is susceptible to oxidation by a strong chemical oxidant, as determined by approved EPA or “Standard Methods”.

s. **City.** The City of Terre Haute, Vigo County, Indiana.

t. **City Council.** The Common Council of the City of Terre Haute, Vigo County, Indiana, or any duly authorized official acting on its behalf.

u. **Cooling Water.** The water discharged from any use such as air conditioning, cooling, refrigeration, or to which the only pollutant added is heat.

v. **Combined Sewer.** A sewer pipe intended to receive sanitary, commercial, and industrial wastewaters as well as stormwater from storm events.

w. **Compatible Pollutant.** Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus any additional pollutants identified in the POTW's NPDES permit, where the POTW is designated to treat such pollutants and, in fact, does remove such pollutants to the degree required by the POTW's NPDES permit or to a substantial degree. Substantial

degree is not subject to precise definition but generally contemplates removals in the order of 85 percent or greater. Minor incidental removals in the order of 10 to 40 percent are not considered substantial. Except as prohibited herein or where these materials would interfere with the operation and performance of the POTW, examples of additional pollutants which may be considered compatible, depending on concentration, include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, ammonia, E-Coli, fats, oils and greases of animals or vegetable origin.

x. **Composite Sample.** The sample resulting from the combination of individual samples taken at selected intervals based on the increment of flow or time. Composite wastewater samples shall contain a minimum of eight (8) discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period.

y. **Control Authority.** The term "Control Authority" shall refer to the City of Terre Haute's Board of Public Works and Safety.

z. **Daily Discharge.** Discharge measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

aa. **Debt Service Costs.** The average annual principal and interest payments on all revenue bonds or other long-term capital debt.

bb. **Direct Discharge.** The discharge of treated or untreated wastewater directly to the waters of the State of Indiana.

cc. **Director.** The Wastewater Director designated by the Board of Public Works and Safety to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Article, or a duly authorized representative.

dd. **Easement.** An acquired legal right for the specific use of land by others.

ee. **Effluent.** Shall mean the water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.

ff. **Environmental Protection Agency (EPA).** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

gg. **Excessive Strength Surcharge.** An additional charge that is billed to users for treating sewage wastes with an average strength in excess of "normal domestic sewage."

hh. **Existing Source.** Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

ii. **Grab Sample.** A sample that is taken from a waste stream on a one-time basis with no regard to the flow of the waste stream and over a period of time not to exceed fifteen (15) minutes.

jj. **Ground (shredded) Garbage.** Garbage that has been shredded to such a degree that all particles will be carried freely in suspension under conditions normally prevailing in the sewage system, with no particle being greater than 1/2" in dimension.

kk. **Holding Tank Waste.** Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, grease interceptors and traps, and vacuum pump tank trucks.

ll. **Incompatible Pollutant.** Any pollutant that is not defined as a compatible pollutant including non-biodegradable dissolved solids.

mm. **Indirect Discharge.** The discharge or introduction of non-domestic pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

nn. **Industrial Wastes.** Industrial wastes shall mean any solid, liquid, or gaseous substance or form of energy discharged, permitted to flow or escaping from an industrial, manufacturing, commercial, or business process or from the development, recovery, or processing of any natural resources carried on by any person, exclusive of sanitary sewage.

oo. **Infiltration.** The water entering the sewer system, including building drains, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. (Infiltration does not include and is distinguished from inflow.)

pp. **Inflow.** Water discharged and entering into the sewer system including building drains, from such sources such as but not limited to roof, down spouts, cellars, yard, area drains, foundation drains, unpolluted cooling water, drains from springs and swampy areas, and combined sewers, catch basins, stormwater run-off, street wash water and drainage. (Inflow does not include, and is distinguishable from infiltration).

qq. **Inflow/Infiltration (I/I).** I/I is the total quantity of water from both inflow and infiltration without distinguishing the source.

rr. **Instantaneous Maximum Allowable Discharge Limit.** The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

ss. **Interference.** A discharge, which alone or in conjunction with a discharge or discharges from other sources, does one (1) of the following: inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal methods; causes of a

violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation; prevents the use of the POTW's sewage sludge or its sludge disposal method in compliance with the following statutory provisions, regulations, or permits issued thereunder, or more stringent State or local regulations: Section 405 of the Act (33 U.S.C. 1345); the Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); and the rules contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941); the Clean Air Act (42 U.S.C. 7401); the Toxic Substances Control Act (15 U.S.C. 2601); and the Marine Protection, Research and Sanctuaries Act 33 U.S.C. §§ 1401 *et seq.* (Gen. Ord. No. 4, 2014, 7-17-14)

tt. **Maximum Daily Discharge Limitations.** The highest allowable daily discharge for a calendar day or specified 24 hour period.

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

vv. **New Source.**

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:
  - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.



- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin, as part of a continuous on-site construction program:
    - (i) any placement, assembly, or installation of facilities or equipment; or
    - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

ww. **National Pollution Discharge Elimination System (NPDES) Permit.** NPDES permit shall mean a permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to Section 402 of the Act.

xx. **Non-contact Cooling Water.** Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

yy. **Non-significant Industrial User.**

- (1) A user not subject to categorical pretreatment standards; or
- (2) A user that:
  - (a) Discharges less than an average of twenty-five thousand (25,000) gpd of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow-down wastewater);
  - (b) Contributes a process waste stream which makes up less than five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

- (c) Is designated as such by the City on the basis that it does not have a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

zz. **Non-significant Categorical Industrial User.**

- (1) A categorical industrial user that never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling, and boiler blowdown wastewater, unless specifically included in the categorical pretreatment standard.)
- (2) A user that:
  - (a) Consistently complies with all applicable pretreatment standards;
  - (b) Annually submits a certification statement (40 CFR 403.12(q) together with any information necessary to support the certification statement; and
  - (c) Never discharges any untreated concentrated wastewater.

aaa. **Normal Domestic Sewage.** Wastewater or sewage having an average daily concentration as follows:

TSS not more than 300 mg/L  
BOD<sub>5</sub> not more than 250 mg/L  
Ammonia-N not more than 25 mg/L

As defined by origin, wastewaters from segregated domestic and/or sanitary conveniences are distinct from industrial processes.

bbb. **Pass Through.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation.

ccc. **Person.** Any individual, partnership, firm, company, municipal or private corporation, association, society, institutions, enterprise, governmental agency or other legal entity or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

ddd. **pH.** The logarithm (base 10) of the reciprocal of the concentration of hydrogen ion expressed in standard units.

eee. **Pollutant.** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt,

municipal, agricultural, industrial wastes and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, TBOD, CBOD, COD, toxicity or odor) discharged or carried in water.

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

ggg. **Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

hhh. **Pretreatment Standards.** Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

iii. **Prohibited Discharges.** Absolute prohibitions against the discharge of certain substances.

jjj. **Publicly Owned Treatment Works (POTW).** A "treatment works", as defined by Section 212 of the Act which is owned by the City. This definition includes any devices or systems used in the collection, pumping, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

kkk. **Sanitary Sewer.** A sewer or system of pipes for conveying sanitary, commercial and industrial wastewaters and into which stormwater and/or water from storm events are not intentionally admitted.

lll. **Septage.** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

mmm. **Sewage.** The combination of the liquid and water-carried wastes from residences, business buildings, institutions and industrial establishments singular or in any combination, together with such ground, surface, and storm waters as may be present.

nnn. **Sewage Works.** The structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

ooo. **Sewer.** A pipe or conduit or system of pipes and conduits for carrying sewage or other waste liquids.

ppp. **"Shall"** is mandatory; **"May"** is permissive.

qqq. **Significant Industrial User (SIU).**

- (1) A user subject to categorical pretreatment standards; or
- (2) A user that:
  - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blow-down wastewater);
  - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
  - (a) The Industrial User, prior to Terre Haute's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
  - (b) The Industrial User annually submits the certification statement required in Sec. 9-8(ZZ)(2)(b) of this Ordinance [see 40CFR 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 a user meeting the criteria in Subsection (2) 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 a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

rrr. **Discharge, Slug Load, or Slug.** Any discharge of a non-routine, episodic nature including but not limited to an accidental spill or a non-customary batch discharge, which has a

reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or Permit conditions. (Gen. Ord. No. 4, 2014, 7-17-14)

sss. **Standard Industrial Classification (SIC) Code.** A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

ttt. **State.** State of Indiana.

uuu. **Standard Methods.** The laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater prepared and published by the American Water Works Association, the Water Environmental Federal and the American Public Health Association.

vvv. **Storm Sewer.** A sewer or system of pipes for conveying surface water or ground water from any source and into which sanitary and/or industrial wastes are not intentionally admitted.

www. **Stormwater.** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

xxx. **Total Suspended Solids (TSS).** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering usually expressed as a concentration (e.g., mg/L). The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of 40 CFR 136.3.

yyy. **Toxic Amount.** Concentrations of any pollutant or combination of pollutants which upon exposure to or assimilation into an organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations as defined in standards issued pursuant to Section 307(a) of the Act.

zzz. **Toxic Pollutant.** Those substances referred to in Section 307(a) of the Act, as well as any other known potential substance capable of producing toxic effects.

aaaa. **Total Toxic Organics (TTOs).** TTOs are toxic organics, as defined and analytically measured by definition in the Federal Register.

bbbb. **Upset.** An exceptional incident in which a discharger unintentionally and temporarily is in a state of non-compliance with applicable standards due to factors beyond the reasonable control of the discharger, and excluding non-compliance to the extent caused by operator error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation of the facilities.

cccc. **User.** Any person who contributes, causes, or permits the contribution of residential, commercial, industrial or any other type of wastewater into the City's POTW. Users

may be classified as residential, commercial, industrial, governmental/institutional as may be appropriate to identify the type of wastewater that the user contributes to the wastewater system.

dddd. **Wastewater.** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

eeee. **Wastewater Constituents and Characteristics.** The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and other parameters that serve to define, classify or measure the quality, quantity and strength of wastewater.

ffff. **Wastewater Treatment Plant (Treatment Plant).** That portion of the POTW that is designed to provide treatment of municipal sewage and industrial waste. (Gen. Ord. No. 8, 2012; 9-13-12)

## Division II. General Rules and Requirements.

### **Sec. 9-9 General Requirements.**

a. It shall be unlawful for any person to place, deposit, permit to be deposited or discharge to any natural outlet within the City or any area under the jurisdiction of the City any sanitary, commercial, industrial or polluted wastewaters except where suitable treatment has been provided in accordance with this Article.

b. Except as herein provided, no person shall construct or maintain any privy, privy vault, septic tank, cesspool or other wastewater treatment facility intended or used for the treatment and/or disposal of sewage.

c. No person shall construct, repair, modify or alter a sewer lateral, public sewer, manhole or other sewer system appurtenance without first obtaining a permit from the Board of Public Works and Safety.

d. No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, pipe or equipment which is part of the sewage system.

e. No person shall discharge or cause to be discharged any stormwater, surface water, ground water, roof run-off, parking lot run-off, cooling water or unpolluted industrial process waters into any sanitary sewer.

f. The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purpose situated in the City and abutting on any street, alley, right-of-way or easement in which there is now located or may in the future be located a public sanitary or combined sewer of the City, are hereby required at their own expense to install

suitable toilet facilities therein and to connect such facilities and industrial waste outlets directly with the public sewer in accordance with this Ordinance within ninety (90) days after the date of official notice to do so, provided that such public sewer is within three hundred feet (300') of the property line.

g. No statement contained in this Ordinance shall be construed as preventing the City from entering into an agreement between the City and any industrial discharger whereby an industrial waste of unusual strength or character may be accepted by the City for treatment subject to payment for treatment services by the industrial discharger.

h. It shall be the responsibility of the property owner to pay for the cost of constructing the sewer lateral from the building to the public sewer. It shall be the responsibility of the property owner to pay for the cost of maintaining the sewer lateral from the building to the public sewer.

i. A separate and independent sanitary sewer lateral shall be provided for each and every building, except present sewer structures in use; and except that where one building stands at the rear of another on the same lot and no sanitary sewer can be constructed to the rear building through an adjoining alley, court, yard or driveway, the sewer lateral from the front building may be extended to the rear building and the whole sewer lateral considered as one sewer lateral for the single property.

j. Old building sanitary sewer laterals may be used in connection with new buildings only when televised by the Wastewater Utility and found, on examination and testing by the said Inspector, to meet all requirements of new sanitary sewer laterals.

k. The Wastewater Utility shall develop and submit to the Board of Public Works and Safety for approval written construction standards for the construction of sewer laterals, sewer mains, manholes and other appurtenances that are connected to the City of Terre Haute sewer system. The Wastewater Utility shall revise the construction standards as appropriate and on a regular basis.

l. The construction of all sewers, components, systems or private sewers that connect to the Terre Haute sewer system shall comply with the requirements of the City of Terre Haute Standards and Specifications. The acceptance of the applicability of these standards to all sewers shall be considered part of the terms for the approval of connection to the Terre Haute sewer system.

m. The construction of combined sewers is prohibited. All new sewers constructed within the Terre Haute wastewater system must be constructed as separate sanitary sewers or as separate storm sewers per the standards described.

n. Any new building connection that may contribute inflow or clear water to an existing combined sewer must be approved by the Director before construction and must be made separate and distinct from the sanitary waste connection to facilitate disconnection of the

inflow or clear water connection if and when a separate storm sewer subsequently becomes available.

o. Any establishment that is primarily engaged in activities of preparing, serving, or otherwise making available food for consumption by the public including but not limited to restaurants, commercial kitchens, caterers, hotels, schools, hospitals, prisons, correctional facilities, and care institutions shall have a grease trap or interceptor. These establishments use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and other food preparation activities that produce a hot, non-drinkable food product in or on a receptacle that requires washing.

- (1) Waste discharge from fixtures and equipment in establishments which may contain fats, oil, or grease, including but not limited to, scullery sinks, pot and pan sinks, and soup kettles may be drained into the sanitary waste through a trap or interceptor which shall be installed in the waste lines where fats, oil, or grease may be introduced into the drainage or sewage system in quantities that can effect line stoppage or hinder sewage treatment or private sewage disposal. The cost of the installation and maintenance of any grease trap or interceptor shall be the responsibility of the owner.
- (2) Grease trap or interceptor sizing and installation shall conform to the current edition of the Uniform Plumbing Code (or applicable plumbing code used by the local agency) and shall be installed at a location where it is easily accessible for inspection, cleaning, and removal of intercepted fats, oil, or grease.
- (3) All grease traps and interceptors shall be serviced and emptied of accumulated waste content regularly as required in order to maintain Minimum Design Capability or effective volume. The frequency of grease removal is dependent upon the capacity of the interceptor and the quantity of grease in the wastewater and should be monitored at least monthly by the owner or other facility personnel. Maintenance logs shall be kept and available on site for review by the City.
- (4) Grease and other waste material that has been removed from the facility shall not be introduced into any drain, sewer, or natural body of water. This waste matter shall be placed in proper containers for disposal. Where recovery of grease is desired, it can be handled in a manner suitable to the authorities.
- (5) If an obstruction of a sewer main(s) occurs that causes a sewer overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease or other waste material from a food service establishment, the City of Terre Haute will take appropriate enforcement actions, as stipulated in the Sewer Use Ordinance, against the generator or contributor of such grease. (Gen. Ord. No. 8, 2012; 9-13-12)



**Sec. 9-10 Prohibited Discharge Standards.**

a. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

b. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flash point of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
- (2) Except in accordance with Sec. 9-9(G) of this Article, wastewater having a pH less than 5.0 or more than 10, or otherwise causing corrosive structural damage to the POTW or equipment, but in no case wastewater which causes the pH at the introduction into the treatment plant to exceed 10;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than 3/4 inch (es) (3/4") in dimension;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (5) Wastewater having a temperature greater than 140°F, or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the Director in accordance with Sec. 9-20 of this Article;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, may be authorized by the Director in a wastewater discharge permit if deemed necessary;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail its NPDES toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
- (17) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10% or any single reading over 10% of the Lower Explosive Limit of the meter.
- (18) Materials causing, alone or in conjunction with other materials normally in the sewer system, an obstruction to the flow in the sewer line or system or injury to the sewer system or cause a nuisance or prevention of effective maintenance or operation of the sewer.
- (19) Fats, oils or grease of animal or vegetable origin in concentrations greater than 300 mg/L or fats, oils or grease of petroleum or mineral origin in concentrations greater than 100 mg/L.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-11 National Categorical Pretreatment Standards.**

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference.

a. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director, through the designated Pretreatment Coordinator, may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

b. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director, through the designated Pretreatment Coordinator, shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).

c. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-12 State Pretreatment Standards.**

The State of Indiana's pretreatment standards are hereby incorporated by reference. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-13 Local Limits.**

a. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following maximum daily allowable discharge limits.

**MAXIMUM DAILY CONCENTRATION**

| Parameter        | Limit Applicable to Non-Categorical Users Only | Limit Applicable to Categorical Industrial Users   |
|------------------|--|--|
| Arsenic (total)  | 0.7 mg/L                                       | 0.7 mg/L   |
| Cadmium (total)  | 0.8 mg/L                                       | 0.8 mg/L   |
| Chromium (total) | 10.0 mg/L                                      | 10.0 mg/L  |
| Copper (total)   | 9.0 mg/L                                       | 9.0 mg/L   |
| Cyanide (total)  | 0.5 mg/L                                       | Calculated in accordance with National Categorical Pretreatment Standards under Sec. 9-11 of this Ordinance* |
| Lead (total)     | 1.2 mg/L                                       | 1.2 mg/L   |
| Mercury (total)  | 0.059 mg/L                                     | 0.059 mg/L   |
| Molybdenum       | 0.62 mg/L                                      | 0.62 mg/L  |
| Nickel (total)   | 0.95 mg/L                                      | Calculated in accordance with National Categorical Pretreatment Standards under Sec. 9-11 of this Ordinance* |

|                               |          |          |
|-------------------------------|----------|----------|
| Oil and/or grease (non-polar) | 100 mg/L | 100 mg/L |
| Oil and/or grease (polar)     | 300 mg/L | 300 mg/L |
| Zinc (total)                  | 9.0 mg/L | 9.0 mg/L |

\*Limits for these parameters will be established for each categorical industrial user individually in accordance with the National Categorical Pretreatment Standard applicable to that user, and may be greater than the limits applicable to non-categorical users only, consistent with U.S. EPA guidance concerning individual allocation of available industrial loadings.

b. Total Toxic Organics (TTOs) - Limits for those parameters on any TTO list from 40 CFR 405-471 will be considered on an individual case by case basis. The Director shall consider such factors including but not limited to: concentration, loading, flow to the wastewater treatment plant and other consideration necessary to prevent pass through and protect the POTW.

c. Any wastewater containing in excess of 250 mg/L of BOD<sub>5</sub> or 300 mg/L total suspended solids or 25 mg/L ammonia-N will be surcharged as high strength wastewater. The issuance of surcharges for treating high strength wastewater shall not be construed as acceptance of high strength wastewaters for treatment by the City of Terre Haute. The City of Terre Haute reserves the right and authority to prohibit the discharge of high strength wastewater when such wastewaters cause or are reasonably expected to cause POTW upsets, overloading or damage to the sewer collection system.

d. The above limits apply at the point where the wastewater is discharged into the public sewer. The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-14 City’s Right of Revision.**

The City reserves the right to establish, by ordinance or in industrial wastewater discharge permits, more stringent standards or requirements on discharges to the POTW. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-15 Dilution.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate. (Gen. Ord. No. 8, 2012; 9-13-12)

Division III. Pretreatment of Wastewater.

**Sec. 9-16 Establishment of Pretreatment Program.**

The Director is hereby authorized and directed to establish a Pretreatment Program for the purpose of properly monitoring and controlling the discharging of non-domestic wastewaters into

the City of Terre Haute's sewer system. The Pretreatment Program shall have written policies and procedures developed and approved by the Terre Haute Board of Public Works and Safety. The policies and procedures shall address, but not be limited to, issues such as a schedule and frequency of surveillance of Significant Industrial Users, Enforcement Procedures and Enforcement Response Plan. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-17 Pretreatment Facilities.**

Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Sec. 9-9 and Sec. 9-10 of this Article within the time limitations specified by EPA, the State, or the Board of Public Works and Safety, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be reviewed and approved by the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-18 Additional Pretreatment Measures.**

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

b. The Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An industrial wastewater discharge permit may be issued solely for flow equalization.

c. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interceptor units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

d. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-19 Accidental Discharge/Slug Control Plans.**

The Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan and / or shall evaluate the need for other action to control slug discharges. The Director may require any user to develop, submit for approval, and implement such a discharge / slug control plan and / or identify the other actions to control slug discharges. The Director may develop such a discharge / slug control plan for any user who fails to develop the required plan or who does not address the minimum criteria for a complete plan, as determined by the Director. An accidental discharge/slug control plan shall address, at a minimum, the following:

- a. Description of discharge practices, including non-routine batch discharges;
- b. Description of stored chemicals;
- c. Procedures for immediately notifying the Director of any accidental or slug discharge, as required by Sec. 9-39 of this Article; and
- d. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-20 Hauled Wastewater.**

a. Trucked or hauled wastewater (hereafter “hauled wastewater”) approved by the Director may be introduced into the POTW only at locations and times designated by the Director. The Director designates the following locations and times for the introduction of hauled wastewater into the POTW:

- (1) Emergency Location with 24-Hour Availability
  - (a) Mainlift Station – 2720 Prairieton Rd.
  - (b) View Avenue & Fenwood Avenue
  - (c) 11<sup>th</sup> St. & Harrison St.
- (2) Locations To Be Used Only from 7:00 a.m. to 5:00 p.m., Monday through Friday
  - (a) 9<sup>th</sup> St. & Barbour Avenue
  - (b) 9<sup>th</sup> St. & Marley Drive
  - (c) Mulberry St. & Water St.
  - (d) 15<sup>th</sup> St. & Franklin St.
  - (e) 27<sup>th</sup> St. & Prairie Avenue
  - (f) Glen & Maple Liftstation (North Chamberlain Road)

b. Hauled wastewater shall not violate Sec. 9-9 through Sec. 9-15 of this Article or any other requirements established by the City. The Director shall require wastewater haulers not employed by the City of Terre Haute Wastewater Utility to obtain a license issued by the

City (Sec. 9-89 of this Article). The Director may require licensed haulers to provide a laboratory analysis of the wastewater prior to discharge, to ensure compliance with this Article.

c. The Director may require generators of hauled wastewater to obtain wastewater discharge permits. The Director also may prohibit the disposal of hauled wastewater. The discharge of hauled wastewater is subject to all other requirements of this Article.

d. No hauled wastewater load may be discharged without prior consent of the Director. The Director may collect samples of each hauled wastewater load to ensure compliance with applicable standards.

e. Wastewater haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the wastewater hauler, permit number, truck identification, names and addresses of sources of wastewater, and volume and characteristics of wastewater. The form shall identify the type of waste, known or suspected wastewater constituents, and whether any wastewater is RCRA hazardous waste. (Gen. Ord. No. 8, 2012; 9-13-12; Gen. Ord. No. 4, 2014, 7-17-14)

#### Division IV. Wastewater Discharge Permit and Application.

##### **Sec. 9-21 Wastewater Analysis.**

When requested by the Director, a user must submit information on the nature and characteristics of its wastewater within ten (10) business days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information. Failure to complete and submit this form shall be deemed a violation of this Article and subjects the User to the sanctions set out in Sec. 9-53 through Sec. 9-66 of this Article. (Gen. Ord. No. 8, 2012; 9-13-12)

##### **Sec. 9-22 Wastewater Discharge Permit Requirements.**

a. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director, except that a significant industrial user that has filed a timely application pursuant to Sec. 9-23 of this Article may continue to discharge for the time period specified therein.

b. The Director may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Article.

c. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Article and subjects the wastewater discharge permittee to the sanctions set out in Sec. 9-53 through Sec. 9-66 of this Article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-23 Wastewater Discharge Permitting.**

Any user, industrial user or Significant Industrial User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Sec. 9-24 of this Article, must be filed at least one hundred and eighty (180) days prior to the date upon which any discharge will begin or recommence. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-24 Wastewater Discharge Permit Application Contents.**

All users required to obtain a wastewater discharge permit must submit a permit application. The Director may require all users to submit as part of an application the following information required by Sec. 9-34(B) of this Article including but not limited to:

- a. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- b. Number and type of employees, SIC number, hours of operation, and proposed or actual hours of operation;
- c. Each product produced by type, amount, process or processes, and rate of production;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- f. Time and duration of discharges;
- g. The location for monitoring all wastes covered by the permit; and
- h. Flow measurement information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Sec. 9-11(B) (40 CFR 403.6(e)).
- i. Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision. (Gen. Ord. No. 8, 2012; 9-13-12)



**Sec. 9-25 Application Signatories and Certification.**

a. All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in Sec. 9-47 of this Article.

b. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.

c. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to Sec. 9-8(zz) of this Article must annually submit the signed certification statement in Sec. 9-47 of this Article. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-26 Wastewater Discharge Permit Decisions.**

The Director will evaluate the data furnished by the user and may require additional information. Within thirty (30) working days of receipt of a complete wastewater discharge permit application, the Director will determine whether or not to issue a wastewater discharge permit. The Director may deny any application for a wastewater discharge permit with justifiable cause. The Director shall provide the applicant a written record documenting the reasons for approving or disapproving a wastewater discharge permit application. (Gen. Ord. No. 8, 2012; 9-13-12)

Division V. Wastewater Discharge Permit Issuance Process.

**Sec. 9-27 Wastewater Discharge Permit Duration.**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-28 Wastewater Discharge Permit Contents.**

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

a. Wastewater discharge permits shall contain:

(1) A statement that indicates the wastewater discharge permit effective date and expiration date;

- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Sec. 9-30 of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits based on applicable pretreatment standards;
- (4) Best Management Practices (BMPs) required by a pretreatment standard, local limit, state or local ordinance;
- (5) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (6) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (7) A written statement documenting the basis for the issuance of the permit and limits.
- (8) Requirements to control slug discharges, if determined by the Director to be necessary.

b. Wastewater discharge permits may contain, but are not limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) A compliance schedule containing increments of progress with specific dates for the commencement and completion of major events related to the construction and operation of additional pretreatment required for the user to meet applicable categorical pretreatment standards, local limits or other wastewater discharge permit provisions. A specific date for compliance with the applicable standard, limit or condition shall be included in the schedule. No increment of the compliance schedule shall exceed nine (9) calendar months nor may the total schedule exceed three (3) calendar years.

- (4) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (5) Development and implementation of waste minimization and/or pollution prevention plans to reduce the amount of pollutants discharged to the POTW;
- (6) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- (7) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (8) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (9) Other conditions as deemed appropriate by the Director to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-29 Wastewater Discharge Permit Modification.**

The Director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- a. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- b. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- c. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- d. Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, receiving waters, or the beneficial use of POTW sludge;
- e. Violation of any terms or conditions of the wastewater discharge permit;
- f. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- g. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

- h. To correct typographical or other errors in the wastewater discharge permit; or
- i. To reflect a transfer of the facility ownership or operation to a new owner or operator. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-30 Wastewater Discharge Permit Transfer.**

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) working days advance notice to the Director and the Director approves the wastewater discharge permit transfer. The notice to the Director must include a written certification by the new owner or operator which:

- a. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- b. Identifies the specific date on which the transfer is to occur; and Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- c. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer. (Gen. Ord. No. 8, 2012; 9-13-12)

**9-31 Wastewater Discharge Permit Revocation.**

The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- a. Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
- b. Failure to provide prior notification to the Director of changed conditions pursuant to Sec. 9-38 of this Article;
- c. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- d. Falsifying self-monitoring reports;
- e. Tampering with monitoring equipment;
- f. Refusing to allow the Director timely access to the facility premises and records;
- g. Failure to meet effluent limitations;
- h. Failure to pay fines;

- i. Failure to pay sewer charges;
- j. Failure to meet compliance schedules;
- k. Failure to complete a wastewater survey or the wastewater discharge permit application;
- l. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- m. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-32 Wastewater Discharge Permit Reissuance.**

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Sec. 9-24 of this Article, a minimum of one hundred eighty (180) days prior to the expiration of the user's existing wastewater discharge permit. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-33 Regulation of Waste Received from Other Jurisdictions.**

a. If another municipality, political jurisdiction or user located within another municipality or other political jurisdiction outside of the City of Terre Haute, contributes wastewater to the POTW, the Board of Public Works and Safety shall enter into an agreement with the contributing political jurisdiction, user and political jurisdiction in which the user is located.

b. Prior to entering into an agreement required by paragraph A, above, the Director shall request the following information from the contributing jurisdiction and user:

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing jurisdiction or user;
- (2) An inventory of all users located within the contributing jurisdiction that are discharging to the POTW; and
- (3) Such other information as the Director may deem necessary.

c. An agreement, as required by paragraph A, above, shall contain the following conditions:

- (1) A requirement for the contributing political jurisdiction and user to adopt a Sewer Use Ordinance which is at least as stringent as this Ordinance. The requirement shall specify that such Ordinance and limits must be revised as necessary to reflect changes made to the City's Ordinance or local limits;
- (2) A requirement for the contributing political jurisdiction and user to submit a revised user inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing political jurisdiction; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing jurisdiction and the Director;
- (4) A requirement for the contributing political jurisdiction to provide the Director with access to all information that the contributing political jurisdiction obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing political jurisdiction's and user's wastewaters at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing political jurisdiction's discharge;
- (7) A provision ensuring the Director access to the facilities of users located within the contributing jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director; and
- (8) A provision specifying remedies available for breach of the terms of the intergovernmental agreement. (Gen. Ord. No. 8, 2012; 9-13-12)

Division VI. Reporting Requirements.

**9-34 Baseline Monitoring Reports.**

a. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- b. Users described above shall submit the information set forth below.
- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
  - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
  - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.
  - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
  - (5) Measurement of Pollutants.
    - (a) The categorical pretreatment standards applicable to each regulated process.
    - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Sec. 9-43 of this Article.
    - (c) Sampling must be performed in accordance with procedures set out in Sec. 9-44 of this Article.
  - (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
  - (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule, as described in Sec. 9-28(B)(3) of this Article, by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A

compliance schedule pursuant to this Subsection must meet the requirements set out in Sec. 9-35 of this Article.

- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Sec. 9-25 of this Article. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-35 Compliance Schedule Progress Reports.**

The following conditions shall apply to the compliance schedule required by Sec. 9-34(B)(7) of this Article:

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

b. No increment referred to above shall exceed nine (9) months;

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

d. In no event shall more than nine (9) months elapse between such progress reports to the Director. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-36 Reports on Compliance with Categorical Pretreatment Standard Deadline.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, and/or Best Management Practices (BMPs) or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and/or Best Management Practices (BMPs) and requirements shall submit to the Director a report containing the information described in Sec. 9-34(B)(4-6) of this Article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Sec. 9-25 of this Article. All sampling will be done in conformance with Sec. 9-44 of this Article. (Gen. Ord. No. 8, 2012; 9-13-12; Gen. Ord. No. 4, 2014; 7-17-14)

### **Sec. 9-37 Periodic Compliance Reports.**



a. All significant industrial users shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Sec. 9-25 of this Article.

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

c. If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in Sec. 9-44 of this Article, the results of this monitoring shall be included in the report.

d. If a Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the user shall submit documentation required by the Director or the pretreatment standard necessary to determine the compliance status of the user.

e. The Director may modify the months during which the required reports are submitted after consideration of such factors as local high or low flow rates, holidays, budget cycles, reporting periods, etc., upon receipt of a request for a modified schedule from the user or as desired by the Director. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-38 Reports of Changed Conditions.**

Each user must notify the Director of any planned significant changes to the user's operations or system which might alter the nature, quality, potential for slug discharges or volume of its wastewater at least thirty (30) working days before the change.

a. The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Sec. 9-24 of this Article.

b. The Director may issue a wastewater discharge permit under Sec. 9-26 of this Article or modify an existing wastewater discharge permit under Sec. 9-29 of this Article in response to changed conditions or anticipated changed conditions. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-39 Reports of Potential Problems.**

a. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load,

that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

b. Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this Article.

c. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

d. Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a slug discharge. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-40 Reports from Unpermitted Users.**

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director upon receipt of a written request from the Director stating the nature of the information requested. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-41 Notice of Violation/Repeat Sampling and Reporting.**

If sampling performed by a user indicates a violation, the user must notify the Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Director monitors at the user's facility at least once a month, or if the Director samples between the user's initial sampling and when the user receives the results of this sampling. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-42 Discharge of Hazardous Waste.**

Any discharge into the POTW of any waste, substance, material or substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 is prohibited unless authorized by written permit signed by the Director. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-43 Analytical Requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, 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, sampling and analyses must be performed in accordance with procedures approved by EPA. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-44 Sample Collection.**

a. Except as indicated in Subsections B and D below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Director may authorize the use of time proportional sampling or a minimum of eight (8) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

b. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

c. Samples for monitoring compliance of Categorical Industries should be taken immediately downstream from the pretreatment facilities if such facilities exist or immediately downstream from the regulated process if no pretreatment facilities exist. If other wastewaters are mixed with the regulated wastewater prior to treatment, the user should measure the flows and concentration necessary to allow use of the combined wastestream in order to evaluate compliance with Pretreatment Standards. When an alternate concentration or mass limit has been calculated this adjusted limit along with the supporting data shall be submitted to the Director.

d. For sampling required in support of baseline monitoring and 90-day compliance reports required in Sec. 9-34 and Sec. 9-36 of this Article [40 CFR 403.12(b) and (d)], a minimum of eight (8) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by paragraphs Sec. 9-37 of this Article (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

e. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that are representative of conditions occurring during the reporting period. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-45 Timing.**

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed the date of receipt of the report shall govern. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-46 Record Keeping.**

Users subject to the reporting requirements of this Article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities, instrumentation calibration, operation logs, reports, correspondence and sample logs required by this Article, records indicating compliance with Best Management Practices (BMPs) and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Director.

The POTW shall retain and preserve all permit files, records and enforcement activity records for no less than three (3) years. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-47 Certification Statements.**

a. Certification of Permit Applications and User Reports. The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Sec. 9-24 and 9-25 of this Article; Users submitting baseline monitoring reports under Sec. 9-34 of this Article (40 CFR 403.12 (l)); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Sec. 9-36 of this Article (40 CFR 403.12(d)); and Users submitting periodic compliance reports required by Sec. 9-37 of this Article (40 CFR 403.12(e) and (h)). The following certification statement must be signed by an Authorized Representative as defined in Sec. 9-8(E) of this Article:

*I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible or gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.*

b. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to Sec.

9-8(zz) or Sec. 9-8(qqq) of this Article must annually submit the following certification statement signed in accordance with the signatory requirements in Sec. 9-8(E) of this Article. This certification must accompany an alternative report required by the Director:

*Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR \_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]:*

*(a) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Sec. 9-8(zz) of the Terre Haute Utilities Ordinance;*

*(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

*This compliance certification is based on the following information:*

\_\_\_\_\_ (Gen. Ord. No. 8, 2012; 9-13-12)

Division VII. Compliance and Monitoring.

**Sec. 9-48 Right of Entry. Inspection and Sampling.**

a. The Director shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Article and any wastewater discharge permit or order issued hereunder. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

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

c. The Director shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

d. The Director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.

e. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be born by the user.

f. Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this Article. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-49 Search Warrants.**

If the Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek issuance of a search warrant from a court of competent jurisdiction. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-50 Inspection Warrants.**

If the Director has been refused access to a building, structure, or property, or any part thereof, and he or she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director may seek the issuance of an inspection warrant from a court of competent jurisdiction seeking entry onto the premises of the user for the purpose of conducting such inspection and/or sampling. In the alternative, the Director may seek a court order in a court of competent jurisdiction under legal or equitable proceedings as the City may deem is appropriate. (Gen. Ord. No. 8, 2012; 9-13-12)

#### Division VIII. Confidential Information.

#### **Sec. 9-51 Confidential Information.**

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in

enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction. (Gen. Ord. No. 8, 2012; 9-13-12)

Division IX. Publication of Users in Significant Noncompliance.

**Sec. 9-52 Publication of Users in Significant Noncompliance.**

The Director shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

a. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

b. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period equals or exceeds the product of numeric Pretreatment Standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

c. Any other discharge violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative schedule) that the Director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

d. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;

e. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

f. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

g. Failure to accurately report noncompliance; or

h. Any other violation(s), which may include a violation of Best Management Practices, that the Director determines will adversely affect the operation or implementation of the local pretreatment program. (Gen. Ord. No. 8, 2012; 9-13-12)

Division X. Administrative Enforcement Remedies.

**Sec. 9-53 Enforcement Remedies.**

The Director shall develop and publish a written Enforcement Response Guide outlining cause for enforcement action and the level of enforcement action. Nothing in the Enforcement Response Guide shall limit or restrict the Director from taking enforcement actions more severe than those published in the Enforcement Response Guide. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-54 Notification of Violation.**

When the Director finds that a user has violated, or continues to violate, any provision of this Article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve upon that user a written Notice of Violation (NOV). Within thirty (30) days of the receipt of a NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-55 Consent Orders.**

The Director may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sec. 9-57 and Sec. 9-58 of this Article and shall be judicially enforceable. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-56 Show Cause Hearing.**

The Director may order a user which has violated, or continues to violate, any provision of this Article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven (7) days prior to the hearing. Such notice may be served on any



authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-57 Compliance Orders.**

When the Director finds that a user has violated, or continues to violate, any provision of this Article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue a Compliance Order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance Orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A Compliance Order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a Compliance Order relieve the user of liability for any violation, including any continuing violation. Issuance of a Compliance Order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-58 Cease and Desist Orders.**

When the Director finds that a user has violated, or continues to violate, any provision of this Article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Director may issue a Cease and Desist Order to the user directing it to cease and desist all such violations and directing the user to:

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

Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-59 Administrative Fines.**

a. When the Director finds that a user has violated, or continues to violate, any provision of this Article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may fine such user in an amount not to exceed One Thousand Dollars (\$1,000.00). Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

b. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one and one-half percent (1-1/2%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

c. Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

d. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-60 Emergency Suspensions.**

a. The Director may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

b. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings in Sec. 9-61 of this Article are initiated against the user.

c. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Sec. 9-56 or Sec. 9-61 of this Article.

d. Nothing in this Article shall be interpreted as requiring a hearing prior to any emergency suspension under this Section. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-61 Termination of Discharge.**

In addition to the provisions in Sec. 9-31 of this Article, any user who violates the following conditions is subject to discharge termination:

- a. Violation of wastewater discharge permit conditions;
- b. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- c. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- d. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- e. Violation of the pretreatment standards contained in Sec. 9-9 through Sec. 9-15 of this Article.
- f. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Sec. 9-56 of this Article why the proposed action should not be taken. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user. (Gen. Ord. No. 8, 2012; 9-13-12)

Division XI. Judicial Enforcement Remedies.

**Sec. 9-62 Injunctive Relief.**

When the Director finds that a user has violated, or continues to violate, any provision of this Article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may petition a court of competent jurisdiction through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Article on activities of the user. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-63 Civil Penalties.**

a. A user who has violated, or continues to violate, any provision of this Article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a civil penalty of not less than One Thousand Dollars (\$1,000.00) nor more than Twenty Five Hundred (\$2,500.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

b. The Director may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

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

d. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-64 Criminal Penalties.**

a. Any person who knowingly or willfully makes any false statement, representation or certification in any application, report or other document required by this Article or other regulations adopted by the Board, or who tampers with or knowingly or willfully renders inaccurate any monitoring device so as to render false information may be subject to the provisions of I.C. 35-44-2-1. The Board shall, when appropriate, refer such matters to the City Attorney for consideration of criminal prosecution. The Board also reserves the right to refer suspected knowing or willful violations to the Indiana Department of Environmental Management or the U.S. Environmental Protection Agency, Region 5 for criminal prosecution.

b. All reports and other documents required to be submitted or maintained pursuant to this Article are subject to: (1) the provisions of 18 USC § 1001 relating to fraud and false statements; (2) provisions of Section 309(c)(4) of the Act, as amended, governing false statements, representations or certification; and (3) the provisions of Section 309 (c)(6) of the Act regarding responsible corporate officers. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-65 Remedies Nonexclusive.**

The remedies provided for in this Article are not exclusive. The Director may take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan. However, the Director may take other action against any user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any non-compliant user. (Gen. Ord. No. 8, 2012; 9-13-12)

### Division XII. Supplemental Enforcement Action.

#### **Sec. 9-66 Public Nuisances.**

A violation of any provision of this Article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a

public nuisance shall be subject to the provisions of the City of Terre Haute's Code of Ordinances governing such nuisances, including reimbursing the City for any costs incurred in removing, abating, or remedying said nuisance. (Gen. Ord. No. 8, 2012; 9-13-12)

Division XIII. Affirmative Defenses to Discharge Violations.

**Sec. 9-67 Upset.**

a. For the purposes of this Section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

b. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.

c. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the Director within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:
  - (a) A description of the indirect discharge and cause of noncompliance;
  - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

d. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

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

f. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 6-98 Prohibited Discharge Standards.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in this Article if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

a. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

b. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-69 Bypass.**

a. For the purposes of this Section,

(1) "Bypass" or "bypassing" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

b. A user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

c. Notice of Bypass

(1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least ten (10) days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

d. Bypassing is prohibited, and the Director may take an enforcement action against a user for a bypass, unless

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

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

(3) The user submitted notices as required under paragraph (C) of this Section.

e. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (D) of this Section. (Gen. Ord. No. 8, 2012; 9-13-12)

#### Division XIV. Miscellaneous Provisions.

##### **Sec. 9-70 Adoption of Pretreatment Charges and Fees.**

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program that may include:

a. Fees for wastewater discharge permit applications including the cost of processing such applications;

b. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;

c. Fees for reviewing and responding to accidental discharge procedures and construction;

- d. Fees for filing appeals; and
- e. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Article and are separate from all other fees, fines, and penalties chargeable by the City. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-71 Reserved for Future Use.**

**ARTICLE 3. REGULATIONS ADDRESSING CONNECTIONS TO AND USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND DISCHARGE.**

**Sec. 9-72 Definitions.**<sup>173</sup>

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

- a. **B.O.D.** (denoting **Biochemical Oxygen Demand**). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter.
- b. **Board.** The Board of Public Works and Safety of the City or its duly authorized agent or employee.
- c. **Building Sewer.** The extension from the building drain to the public sewer or other place of disposal.
- d. **Combined Sewer.** A sewer receiving both surface run off and sewage.
- e. **Director.** The Wastewater Director designated by the Board of Public Works and Safety to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative.
- f. **Garbage.** Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- g. **Industrial Wastes.** The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.

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<sup>173</sup> Editor's Note: Article 3 sets forth the provisions of Gen. Ord. No. 12, 1970, As Amended, which was passed on June 3, 1970. The *1/94 Municipal Code* set forth the provisions of Ord. No. 6, 1961 instead of Gen. Ord. No. 12, 1970, which the 1999 codifiers believe was in error.



h. **Inspector.** The person or persons duly authorized by the City, through its Board of Public Works and Safety, to inspect and approve the installation of building sewers and their connection to the public sewer system.

i. **Natural Outlet.** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.

j. **Person.** Any individual, firm, company, association, society, corporation, or group.

k. **pH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.

l. **Properly Shredded Garbage.** The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

m. **Public Sewer.** A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.

n. **Sanitary Building Drain.** That part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building, which receives the discharge from soil or waste stacks and branches and conveys the same to a point three feet (3') outside the building walls where it connects with its respective building sewer.

o. **Sanitary Sewer.** A sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.

p. **Sewage.** A combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.

q. **Sewage Works.** All facilities for collecting, pumping, treating, and disposing of sewage.

r. **Sewage Treatment Plant.** Any arrangement of devices and structures used for treating sewage.

s. **Sewer.** A pipe or conduit for carrying sewage.

t. **Shall** is mandatory; **May** is permissive.

u. **Discharge, Slug Load, or Slug.** Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a

reasonable potential to cause interference or pass through, or in any way violate the POTW's regulations, local limits, or Permit conditions. (Gen. Ord. No. 4, 2014; 7-17-14)

v. **Storm Drain** (sometimes termed "STORM SEWER"). A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.

w. **Suspended Solids.** Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.

x. **Watercourse.** A channel in which a flow of water occurs, either continuously or intermittently. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-73 Unlawful Discharges.**

a. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City, or in any area under the jurisdiction of said City, any human or animal excrement, garbage, or other objectionable waste.

b. It shall be unlawful to discharge to any natural outlet within said City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

c. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septage tank, cesspool, or other facility intended or used for the disposal of sewage.

d. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated within the City and abutting on any street, alley or right-of-way in which there is now located a public sanitary or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so, provided that said public sewer is within three hundred feet (300') of the property line. (Gen. Ord. No. 8, 2012; 9-13-12)

### **Sec. 9-74 Compliance Standards.**

a. Where a public sanitary or combined sewer is not available under the provisions of Sec. 9-73d., the building sewer shall be connected to a private sewage disposal system complying with all recommendations of the Indiana State Board of Health.

b. At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Sec. 9-73d., a direct connection shall be made to the public sewer in compliance with this Article, and any septage tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

c. The owner shall operate and maintain the private sewage disposal facilities in sanitary manner at all times, at no expense to the City.

d. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the local Health Officer. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-75 Connection and Installation Regulations.**

a. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Board of Public Works and Safety.

b. All costs and expense incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the City from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.

c. A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.

d. Old building sewers may be used in connection with new buildings only when televised by the Wastewater Utility and are found, on examination and test by the said Inspector, to meet all requirements of this Article.

e. The construction of all sewers, components, systems or private sewers that connect to the Terre Haute sewer system shall comply with the requirements of the City of Terre Haute Standards and Specifications. The acceptance of the applicability of these standards to all sewers shall be considered part of the terms for the approval of connection to the Terre Haute sewer system.

f. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

g. No person shall make connection of roof, downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

h. The connection of the building sewer into the public sewer shall be made by the "Y" branch, if such branch is available at a suitable location. If the public sewer is twelve inches (12") in diameter or less and no properly located "Y" branch is available, the owner shall at his expense install a "Y" branch in the public sewer at the location specified by the said Inspector.

Where the public sewer is greater than twelve inches (12") in diameter, and no properly located "Y" branch is available, a neat hole may be cut in the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five degrees (45°) ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be in the upper quadrant of the public sewer; provided that connection may be made at a lower point in the public sewer upon approval by the Board. A smooth neat joint shall be made, and the connection made secure and water tight by encasement in concrete. Special fittings may be used for the connection only when approved by the said Inspector.

i. The applicant for the building sewer permit shall notify the said Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the said Inspector or his representative.

j. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner satisfactory to the said City.

k. Cleanout shall be installed at all building sewer deflections exceeding forty-five degrees (45°). (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-76 Discharge Regulations.**<sup>174</sup>

a. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

b. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers, or storm sewers, or to a natural outlet approved by the said Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the said Superintendent, to a storm sewer, combined sewer, or natural outlet.

c. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

- (1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.
- (2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or

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<sup>174</sup> Editor's Note: § 9-7 through § 9-68 set forth pretreatment regulations and should be consulted.

animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

- (3) Any waters or wastes having a pH lower than 5.0, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
- (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

d. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Board that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute a nuisance. In forming his opinion as to the acceptability of these wastes, the Board will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- (1) Any liquid or vapor having a temperature higher than one hundred forty degrees (140°).
- (2) Fats, oils or grease of animal or vegetable origin in concentrations greater than 300 mg/L or fats, oils or grease of petroleum or mineral origin in concentrations greater than 100 mg/L.
- (3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the Director.
- (4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- (5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Board for such materials.
- (6) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by

the Board as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

- (7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board in compliance with applicable State or Federal regulations.
- (8) Any waters or wastes having a pH in excess of 10.0.
- (9) Materials which exert or cause:
  - (a) Unusual concentrations of inert, suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).
  - (b) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).
  - (c) Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
  - (d) Unusual volume of flow or concentration of wastes constituting "slug" as defined herein.
- (10) Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

e. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in Sec. 9-76 d. of this Article, and which in the judgment of the Board may have a deleterious effect upon the sewage works, processes equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Board may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or

- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this Article.

If the Board permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the Board and subject to the requirements of all applicable codes, ordinances, and laws.

f. Grease, oil, and sand interceptors shall be provided when, in the opinion of the said Board, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Director, and shall be located as to be readily and easily accessible for cleaning and inspection.

g. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

h. When required by the Board, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and safely located, and shall be constructed in accordance with plans approved by the Board. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

i. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

j. No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern. (Gen. Ord. No. 8, 2012; 9-13-12)

#### **Sec. 9-77      Damage Prohibited.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a

part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-78      Inspections, Samplings and Testing.**

a.      The Director, Inspector, and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Article. The Board or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. At any time upon request of the Board, Industrial Users shall furnish quantitative and qualitative analyses of their effluent to the Board.

b.      While performing the necessary work on private properties referred to in Sec. 9-78 a. above, the Board or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to City employees and the City shall indemnify the company against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Sec. 9-76 (h).

c.      The Director and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-79      Construction Requirements for Building Sewers.**

All building sewers shall be constructed in accordance with the Standards and Specifications of the City of Terre Haute. (Gen. Ord. No. 28, 2000, 12-14-00)

**Sec. 9-80      Certain Wastes to Storm or Combined Sewers.**<sup>175</sup>

**Sec. 9-81      Penalties.**

a.      Any person found to be violating any provision of this Article shall be served by the City with written notice stating the nature of the violation and providing a reasonable time

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<sup>175</sup> Editor's Note: § 9-80 "Certain Wastes to Storm or Combined Sewers" was deleted by Gen. Ord. No. 29, 2000, 12-14-00.



limit for the satisfactory correction thereof, and the offender shall, within the period of time stated in such notice, permanently cease all violations, provided that with respect to violations of Sec. 9-73(d) of this Ordinance the notice shall be by certified mail and shall allow at least ninety (90) days for the connection required by said Sec. 9-73(d) of this Article.

b. Any person who shall continue any violation beyond the time limit provided for in Subsection a. of this Section shall be guilty of an ordinance violation and upon conviction thereof shall be fined in an amount not exceeding One Hundred Dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Gen. Ord. No. 26, 2004, 11-9-04)

c. Any person violating any of the provisions of this Article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation.

**Sec. 9-82 through Sec. 9-87 Reserved for Future Use.**

#### **ARTICLE 4. SEPTIC TANK REGULATIONS.<sup>176</sup>**

**Sec. 9-88 Definitions.**

a. **Cesspool.** A cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil. (*1964 Terre Haute Municipal Code*, § 1311.01)

b. **Grease Interceptor.** A trap in a drain or waste pipe to stop grease from entering a sewer system.

c. **Seepage Pit.** A dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septage tank.

d. **Septage Tank.** A septage toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes.

e. **Settling Tank.** A tank for holding liquid until suspended particles settle. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-89 License Required.**

No person shall engage in the servicing and cleaning of septage tanks, seepage pits, cesspools, grease interceptors or settling tanks within the City until such time as he has applied for and has been issued a license to do so by the City Controller.

**Sec. 9-90 State License; City License Fee.**

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<sup>176</sup> I.C. § 16-41-25-1, *et seq.*, address residential septic systems.

No person shall be issued a license by the City Controller until such time as he displays or gives evidence of the fact that a license to engage in the servicing and cleaning of septage tanks, seepage pits, cesspools, grease interceptors or settling tanks has been issued to him by the Indiana Department of Environmental Management. In the event the applicant establishes that he has been duly licensed by the Indiana Department of Environmental Management, and upon the payment of a license fee of Fifty Dollars (\$50.00), the City Controller shall issue a license to the applicant permitting the applicant to engage in servicing and cleaning septage tanks, seepage pits, cesspools, grease interceptors or settling tanks within the City. Such City license shall be renewed each calendar year with \$50.00 fee due. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-91 State Approved Vehicles and Equipment.**

Licenses under this Article shall use only State approved vehicles and equipment as required by State law. (*1964 Terre Haute Municipal Code*, § 1311.05)

**Sec. 9-92 Sewage Disposal at Wastewater Utility; Regulations and Rates.**<sup>177</sup>

**a. Sewage Disposal Company Located Inside County Limits.**

- (1) Waste loads originating from a sewage disposal company with its principal place of business, as registered with either the Indiana Secretary of State or the Indiana Department of Revenue, within the Vigo County corporate boundary, may be accepted at the Terre Haute Wastewater Utility, at the place provided therefor. A laboratory analysis of said waste may be performed by the Wastewater Utility and fees may be charged for said laboratory analysis.
- (2) Fees for the expeditious and efficient handling of such waste and the immediate cleansing of all tanks and/or vehicles used to transport the waste to such plant are as follows:

\$0.08 per gallon of truck capacity or actual waste disposed (as metered)

**b. Sewage Disposal Company located Outside County Limits.**

- (1) Waste loads originating from a sewage disposal company with its principal place of business, as registered with either the Indiana Secretary of State or the Indiana Department of Revenue, outside the Vigo County corporate boundary may be accepted at the Terre Haute Wastewater Utility, at the place provided therefor. A laboratory analysis of said waste may be performed by the Wastewater Utility and fees may be charged for said laboratory analysis.

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<sup>177</sup> Editor's Note: Gen. Ord. No. 1, 2015 As Amended amended Gen. Ord. No. 14, 1990, As Amended § 1311.05, which amended Gen. Ord. No. 2, 1984 which had been passed on March 8, 1984.

- (2) Fees for the expeditious and efficient handling of such waste and the immediate cleansing of all tanks and/or vehicles used to transport the waste to such plant are as follows:

\$0.2 per gallon of truck capacity or actual waste disposed (as metered)

c. The City of Terre Haute will provide a flow meter at its disposal sites to meter the actual waste disposed. The sewage discharge company must supply the appropriate sized fittings to connect to the City's flow meter. If sewage disposal company is not able to provide a suitable fitting to connect to the City's flow meter, sewage discharge company will be charged the per gallon rate for the total capacity of the truck (Gen. Ord. 1, 2015 As Amended, 2-12-15).

d. The Board of Public Works and Safety shall have the authority, by resolution passed by the Board, to increase the per gallon disposal fees for both inside the county and outside the county to take effect on January 1, 2018. The increase over the existing rates shall be equal to the percentage of increase of the federally published CPI-Midwest (Consumer Price Index) and shall take effect on January 1 of each respective year thereafter. The Board of Public Works and Safety shall be responsible for publishing an annual notice of the disposal rate increase (Gen. Ord. 1, 2015 As Amended, 2-12-15).

e. Invoices for hauled waste will be sent monthly for each month a discharge occurs. Payment in full must be within 30 days of the bill date on the invoice or a ten percent (10%) penalty will be added. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-93 Penalty.**

- a. Whoever violates any of the provisions of Article 4 shall be fined as follows:

|                |                      |
|----------------|----------------------|
| First Offense  | \$500.00             |
| Second Offense | \$1,000.00           |
| Third Offense  | City License Revoked |

b. The Director of the Wastewater Utility may suspend or revoke a hauling company's dumping privileges at his discretion. Privileges may be suspended or revoked for a variety of reasons, including, but not limited to, the following: failure to comply with safety or conduct requirements, failure to pay sewage billing fees in a timely manner, falsifying information on delivery confirmation receipts, illegal dumping, or other similar issues. The Indiana Department of Environmental Management will be notified of any company's suspension or revocation. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-94 through Sec. 9-97 Reserved for Future Use.**

**ARTICLE 5. SEWER RATES AND CHARGES.**

**Sec. 9-98 Basis of Sewer Charges.**<sup>178</sup>

a. For the use of and services rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected to the City's sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sewage system of the City of Terre Haute, which rates, fees and charges are payable as hereinafter provided and shall be in an amount determinable as follows:

b. Except as in this Article otherwise provided, the sewage rates, fees and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use and shown by the consumption records of the water utility serving the City of Terre Haute and its inhabitants. (Gen. Ord. No. 1, 1977, As Amended, § 1, 2-10-77, *Journal of Common Council*, p. 19; (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-99 Minimum Charges.**

The water usage schedule and the applicable sewage rates and charges based thereon shall be as follows as of the dates shown:

a. The rate for water used or sewage discharged inside the Sanitary District shall be:

December 1, 2016 Eight Dollars and Fifty-Eight Cents (\$8.58) per one hundred cubic feet.

January 1, 2018 Nine Dollars and One Cent (\$9.01) per one hundred cubic feet.

b. A minimum charge (such minimum charge shall include the first three hundred (300) cubic feet of water usage) for all users inside the Sanitary District per month according to the billing period shall be:

December 1, 2016 Twenty-Six Dollars and Eighty-Seven Cents (\$26.87) except that in the event the user is not a metered water customer, the minimum charge shall be determined by means and methods satisfactory to the City.

January 1, 2018 Twenty-Eight Dollars and Twenty-One Cents (\$28.21) except that in the event the user is not a metered water customer, the minimum charge shall be determined by means and methods satisfactory to the City.

c. All domestic non-commercial non-industrial users with non-metered water source shall pay a flat rate per month of:

December 1, 2016 Forty-Six Dollars and Seventeen Cents (\$46.17).

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<sup>178</sup> *I.C.* § 36-9-25-11, addresses the setting of fees for the treatment and disposal of sewage and other waste discharged into the sewerage system.

January 1, 2018      Forty-Seven Dollars and Thirty-Two Cents (\$47.32). (Gen. Ord. 15, 2016, 11-10-16)

d.      The City of Terre Haute, its departments and agencies are exempt from the payment of the sewage rates listed in Sec. 9-99. (Gen. Ord. No. 28, 2001, 1-10-02)

**Sec. 9-100      Yearly Cost Analysis by Common Council.**

The Common Council of the City of Terre Haute shall be responsible for review of sewage rates and charges during the month of December of each calendar year. The Council shall make adjustments of said sewage rates and charges for the upcoming year as based upon factors including but not limited to a cost analysis of the eleven (11) month period of January through November of the current year, said analysis to be provided by the utility to the Council. Such rates and charges that are established may also be based upon projected cost for the upcoming year.

In order to properly execute the above stated duty the Common Council of the City of Terre Haute shall by this Article be given and have vested in it the power and authority to approve and set all items in the yearly budget of the City Sewage Utility.

The City Sewage Utility will submit its budget at the appropriate time, along with those of the other city departments, and the Common Council will exercise the same control over this budget as it does with those of the several city departments. (Gen. Ord. No. 1, 1977, As Amended, § 1(c), 2-10-77, *Journal of Common Council*, pp. 19-20)

**Sec. 9-101      Role of Board of Public Works and Safety.**

The quantity of water obtained from sources other than the water utility serving the City of Terre Haute and discharged into the sewage system may be determined by the City in such manner as the Board of Public Works and Safety shall elect and the sewage services shall be billed at the above appropriate rates. (Gen. Ord. No. 1, 1977, As Amended, § 1(d), 2-10-77, *Journal of Common Council*, p. 20)

**Sec. 9-102      Measuring Devices for Users Who Are Not Water Users.**

In the event a lot, parcel of real estate or building discharging sewage, industrial wastes, water or other liquids into the City's sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the City of Terre Haute and its inhabitants and the water used thereon and therein is not measured by a meter, or is measured by a meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to ascertain the rate or charge, or the owner or other interested party, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of the sewage discharge. (Gen. Ord. No. 1, 1977, As Amended, § 1(e), 2-10-77, *Journal of Common Council*, p. 20)

**Sec. 9-103 Meters and Measuring Devices for Certain Users.**

In the event a lot, parcel of real estate or building discharging sewage, industrial wastes, water or other liquids into the City's sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the City of Terre Haute and its inhabitants and in addition uses water from another source which is not measured by a water meter or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to ascertain the rate or charge, or the owner or other interested party, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for determination of sewage discharge. (Gen. Ord. No. 1, 1977, As Amended, § 1(f), 2-10-77, *Journal of Common Council*, p. 20)

**Sec. 9-104 Volume, Strength and Character of Sewage and Waste.**

a. In order that the rates and charges may be justly and equitably adjusted to the services rendered, the City shall have the right to base its charges not only on volume but also on the strength and character of the sewage and waste which it is required to treat and dispose of. The City shall have the right to measure and determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the City's sanitary sewerage system, in such manner and by such method as may be deemed practical in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. The Board of Public Works and Safety is authorized to prohibit the dumping of wastes into the City's sewerage system which, in its discretion, are deemed harmful to the operation of the sewage disposal works of the City. (Gen. Ord. No. 2, 1981, As Amended, § 1(g), 9-10-81)

b. **High Strength Surcharges.** High strength wastewater will be surcharged as outlined below.

- (1) High strength wastewater containing total suspended solids (TSS) in excess of 300 mg/L shall be billed at \$0.25 per pound.
- (2) High strength wastewater with a biochemical oxygen demand (BOD) concentration in excess of 250 mg/L shall be billed at \$0.25 per pound.
- (3) High strength wastewater with a total ammonia-nitrogen (NH<sub>3</sub>-N) concentration in excess of 50 mg/L shall be billed at \$0.60 per pound.

Invoices for high strength surcharges will be sent monthly for each month a surcharge may occur. Payment in full must be within 30 days of the bill date on the surcharge invoice or a 10% penalty will be added.

c. **Annual Invoice.** The Industrial Wastewater Permit (IWP) required by the City of Terre Haute shall be issued for a period not to exceed five (5) years and the permittee shall pay an annual fee for the permit.

The Terre Haute Wastewater Department will invoice each permitted industry by December 1 of each year for the annual permit fee for the following year. Payment, in full, is due December 31 of each year for the following year for the permittee's Industrial Wastewater Permit.

d. **Permit Fees.** Permit fees shall be divided into four categories, as follows:

- (1) Category 1: For those permitted industrial users whose combined process and sanitary discharge to the Terre Haute Wastewater Utility comprises more than 25% of the total wastewater flow received by the Terre Haute Wastewater Utility or constitutes greater than 25% of the total pollutant loading to the Terre Haute Wastewater Utility an annual Industrial Wastewater Permit Fee of Five Hundred Dollars (\$500.00) will be assessed.
- (2) Category 2: For those permitted industrial users whose combined process and sanitary discharge to the Terre Haute Wastewater Utility comprises more than 10% but less than 25% of the total wastewater flow received by the Terre Haute Wastewater Utility or constitutes greater than 10% but less than 25% of the total pollutant loading to the Terre Haute Wastewater Utility an annual Industrial Wastewater Permit Fee of Three Hundred Dollars (\$300.00) will be assessed.
- (3) Category 3: For those permitted industrial users whose combined process and sanitary discharge to the Terre Haute Wastewater Utility comprises more than 2% but less than 10% of the total wastewater flow received by the Terre Haute Wastewater Utility or constitutes greater than 2% but less than 10% of the total pollutant loading to the Terre Haute Wastewater Utility an annual Industrial Wastewater Permit Fee of Two Hundred Dollars (\$200.00) will be assessed.
- (4) Category 4: For those permitted industrial users whose combined process and sanitary discharge to the Terre Haute Wastewater Utility comprises less than 2% of the total wastewater flow received by the Terre Haute Wastewater Utility or constitutes less than 2% of the total pollutant loading to the Terre Haute Wastewater Utility an annual Industrial Wastewater Permit Fee of One Hundred Dollars (\$100.00) will be assessed.

e. **Miscellaneous Activities.** Extraordinary costs for miscellaneous activities which may include but are not limited to surveillance inspections, noncompliance monitoring and inspection, review of construction plans, appeals, special studies and priority pollutant analyses, etc., may be billed directly to the industry upon completion of the identified activity, per the rates in the following activity charge table:

**ACTIVITY CHARGE TABLE**

|                   |                     |
|-------------------|---------------------|
| Consultant        | Actual Cost         |
| Legal             | Actual Cost         |
| THWU Lab Analyses | Current Market Rate |

|                                  |               |
|----------------------------------|---------------|
| Contract Lab Analyses            | Actual Cost   |
| THWU sewer cleaning services     | \$280/hour    |
| Contract sewer cleaning services | Actual Cost   |
| THWU camera/video truck          | \$100.00/hour |
| Contract camera/video truck      | Actual Cost   |

f. In the event a lot, parcel of real estate or building is discharging sewage, industrial wastes, water or other liquids into the City’s sewage system, either directly or indirectly, and it can be shown, to the satisfaction of the City, that a portion of the water as measured by the water meter or meters does not and cannot enter the sewage system, then the City may determine in such manner and by such method as it may deem practicable the percentage of metered water entering the sewage system. Such percentage, when so determined, shall then constitute the basis of sewage rate or charge, provided, however, that the City in its discretion may require or permit the installation of suitable equipment at the expense of the owner or other interested party in such a manner as to determine the quantity of water used to determine the sewage rate or charge shall be the quantity of water actually entering the sewage system as so determined. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-105 Sewer Connection Fees.**<sup>179</sup>

For connection to sanitary sewers, such owner shall pay to the Board of Public Works and Safety a connection charge in accordance with the following schedule:

a. **Existing Residences.** For each existing single-family residential connection the base fee of Five Hundred Dollars (\$500.00), payable in equal quarterly installments over a maximum period of five (5) years. A charge equal to ten percent (10%) of delinquent quarterly fees will be assessed on payments made after the due date of said payments. The unpaid balance shall be immediately due and payable upon conveyance of said property.

b. **New Residences.** For each new single-family residential connection the base fee of Five Hundred Dollars (\$500.00) payable at time of construction.

c. **Multiple Family Residences.** Multiple family residential connection fees shall be: the base fee multiplied by 0.65 multiplied by the number of units. (Example: Duplex connection fee \$500 x 0.65 x 2 = \$650). (Gen. Ord. No. 14, 1990, As Amended, § 3, (913.05), 1-10-91; Gen. Ord. No. 35, 2004, 12-09-04)

d. **Commercial/Industrial –** All other structures not covered in the above should be based on the following connection fee schedule:

| <b>Domestic Water Meter Size (Inches)</b> | <b>Connection Fee</b> |
|---|-----------------------|
| 5/8                                       | base fee              |
| 3/4                                       | 1.5 times base fee    |

<sup>179</sup> Editor’s Note: Gen. Ord. No. 14, 1990, As Amended, raised the fee for existing residences and new residences from \$400.00 to \$500.00 which had been established in Gen. Ord. No. 12, 1980, passed December 11, 1980.



|    |                    |
|----|--------------------|
| 1  | 2.5 times base fee |
| 1½ | 6 times base fee   |
| 2  | 10 times base fee  |
| 3  | 23 times base fee  |
| 4  | 41 times base fee  |
| 6  | case by case       |

If an additional or larger meter is installed for an existing non-single family residential customer, a connection fee shall be assessed based on the following formula:

Additional flow generated by the customer divided by flow generated by average single family residential customer multiplied by the base fee. (Gen. Ord. No. 35, 2004, 12-09-04)

**Sec. 9-106 Application for Permit; Waivers.**<sup>180</sup>

The owner of each and every lot, parcel of real estate or building who makes or is ordered by the Board of Public Works and Safety to make application for a permit to connect with the sewage system of the City shall pay a charge or charges for such permit and connection as follows:

a. Such owner shall make application on a special form furnished by the City. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. There shall be paid to the City Controller at the time the application is filed a permit and inspection fee in the amount of Ten Dollars (\$10.00) regardless of the type of connection or the type of premises for which connection is sought.

The Board of Public Works and Safety may waive the connection charges (but not permit and inspection fee) provided for herein where such owner’s participation in the construction of a local sewer, which local sewer is connected with the City’s sewage works system, results in his share of the cost of construction of such local sewer being more than the applicable connection charge or charges. The Board of Public Works and Safety may also waive connection charges, (but not the permit and inspection fee) where the property owner relinquishes to the City, right-of-way, easement or other rights of property, real or intangible, that are deemed to be of equal or greater value than the connection charge. (Gen. Ord. No. 1, 1977, As Amended § 2, (a) & (b), 2-10-77, *Journal of Common Council*, pp. 21-22)

**Sec. 9-107 Definitions.**

The terms “Sewage” and “Industrial Wastes” shall be defined as follows:

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<sup>180</sup> Editor’s Note: Subsection c of § 2 of Gen. Ord. No. 1, 1977, as amended, was not included since it specifically dealt with contracts of the 1967 calendar year.

a. **Sewage.** Waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains and all other water carried waste except industrial waste.

b. **Industrial Wastes.** The liquid waste or liquid-borne waste resulting from any commercial, manufacturing, or industrial operation or process. (Gen. Ord. No. 1, 1976, As Amended § 3, 6-10-76, *Journal of Common Council*, p. 171)

#### **Sec. 9-108 Monthly Billings.**

The rates and charges shall be prepared and billed by the City of Terre Haute and shall be collected in the manner provided by law and ordinance. Said rates and charges may be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners, but such billings shall in no way relieve the owners from liability in the event payment is not made as herein required. The owners of property served which are occupied by tenants shall have the right to examine the collection records of the City for the purpose of determining whether such rates and charges have been paid by such tenants, provided that such examination shall be made at the office in which said records are kept during the hours that such office is open for business.

Billing for sewage rates and charges shall be made monthly and/or quarterly, and such rates and charges, except as hereinbefore provided, shall be based upon the quantity of water used on or in the property or premises as the same is measured by the meter there in use, and said metered water usage shall be determined from the meter readings as furnished by the water utility serving the City of Terre Haute and its inhabitants. (Gen. Ord. No. 1, 1976, As Amended § 4, 6-10-76, *Journal of Common Council*, p. 171)

#### **Sec. 9-109 By-Laws and Regulations.**

The Board of Public Works and Safety shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical, and efficient management of the City's sewage works including the sewer system and the treatment plant, for the construction and use of house sewers and connections to the sewer system, and for the regulation, collecting, rebating, and refunding of rates and charges. (Gen. Ord. No. 1, 1976, As Amended § 5, 6-10-76, *Journal of Common Council*, p. 171)

#### **Sec. 9-110 Summer Water Use Allowance.**

Any residential user now paying sewer use charges whose account is in good standing (paid in full at the last issued statement) shall be entitled to a one-time a year Summer Water Use Allowance to be allowed for lawn sprinkling allowance or swimming pool filling for three (3) consecutive months as selected by the City Controller's Office each year, such allowance to be granted upon written request of such residential user submitted to the City Controller's Office, City Hall. To be considered for an allowance, such written request for Summer Water Use

Allowance must be submitted and received by City Controller's Office within the same calendar year as the summer water usage occurred. (Gen. Ord. No. 2, 2015, 2-13-15)

a. Such Summer Water Use Allowance shall be computed in accordance with the following formula:

The City Controller's Office shall select three (3) consecutive months' invoices reflecting the lowest and the highest volume of water consumed by the user. To the lowest volume of water consumed, an additional thirty percent (30%) shall be added to reflect the normal summertime usage. The summer water use adjustment shall be an amount equal to the excess volume between the highest volume consumed during the preceding year and the normal summertime usage (which is the lowest volume consumed plus thirty percent (30%). The adjustment will be applied to one (1) monthly billing in the following year as selected by the City Controller's Office.

b. In no instance shall estimated monthly usage volumes be used in calculating the Summer Water Use Allowance; usage must be from actual meter readings. No allowance shall be credited to reduce an account below a minimum bill. Further, applicant must have been an occupant and active user of the sewage disposal system for no less than one (1) year. (Special Ord. No. 9, 1990, 6-14-90; Gen. Ord. No. 4, 2009, 5-14-09)

#### **Sec. 9-111 Utility Deposits.**

a. Deposits by Users.

All person applying for the use of and using water within the City of Terre Haute, Indiana, upon the inception of such use and upon application for such use shall be required to pay a deposit for an assessment to such user for a three (3) month period, prior to the commencement of such water usage by such person. (Gen. Ord. No. 3, 1966, As Amended, § 1, 1-8-72)

b. The Handling and Retention of Water Deposits.

The sewage disposal works shall be and is empowered to collect and retain deposits as provided in Section a. herein, and be further empowered to establish a separate account for the deposit of same in the name and under the control of said sewage works, and be further empowered to invest the same in tangible bills and any other evidence of debt and authorized to retain, as fees for handling said account, all interest or other accrual payments as the sole property of said sewage works. (Gen. Ord. No. 3, 1966, As Amended, § 2, 1-8-72)

c. Refunds of Water Deposits.

The sewage disposal works, from and after the expiration of three (3) years shall be and is directed to refund to any such user the deposit so paid by such user provided and on the condition that such user has kept current his water bill and sewage disposal fees during said three (3) year period and further provided that said user's water bill and sewage disposal fees are

current at the date of the proposed refund after the expiration of said three (3) year period. (Gen. Ord. No. 3, 1966, As Amended, § 3, 1-8-72)

d. Discontinuance or Refusal of Water Service.

The sewage disposal works shall keep full and adequate books and records of all sewage disposal fees incurred and paid by users. If a fee for sewer use is not paid within one (1) monthly billing cycle after it is due, notice shall be sent to the user stating the amount of user fees along with any penalty owed which is delinquent; giving notice that water service may be discontinued if the user continues not to pay the delinquency and any penalty; that in the event water service is discontinued, the user shall also be responsible for payment of any costs incurred by the sanitary utility for the disconnection and/or reconnection of the water service; and the procedure for resolving disputed bills. If the user fails to pay the delinquent amount, including any penalty, or otherwise resolve the charges, notice may be given by the sanitary utility to the water utility serving the user to discontinue water services to the premises. Any cost incurred for the disconnection and/or reconnection of the water utility shall be charged to the user along with the delinquent sewer use fees and any penalty. If the water utility shall disconnect water service to the user, the water service in the name of the delinquent user shall not be restored at the same premises or at any other premises served by the sanitary utility unless and until the disconnection and/or reconnection fee, all delinquent user fees and penalties are paid. (Gen. Ord. No. 31, 2004, 12-09-04)

e. Implementation and Enabling Section.

The sewage disposal works of the City of Terre Haute, Indiana, shall be and is authorized to adopt and in connection herewith any and all procedures and collateral remedies determined necessary by such council in the implementation and enabling of the foregoing provisions. This Section shall be in force from and after January 1, 1967, and applies to new applications only. (Gen. Ord. No. 3, 1966, As Amended, § 5, 1-8-72)

**Sec. 9-112 Leak Adjustment.**

a. Upon notification or receipt from water service provider of a water leak adjustment, City will credit sewer account in an amount equal to the total units credited by the water service provider. (Gen. Ord. NO. 6, 2015, 5-14-15)

b. Any person subject to this Article may apply for a leak adjustment of the charges assessed against him if each of the following conditions is met:

1. Current account holder (or titled property owner) shall submit written notification to the City Controller's Office within sixty (60) days of the billing date when an excessive water use is posted of the need for a leak adjustment. City Controller shall document the account to reference the leak adjustment notification. (Gen. Ord. No. 6, 2015, 5-14-15)

2. Current account holder (or titled property owner) shall submit written documentation to the City Controller within one hundred eighty (180) days of the billing date when the excessive use was posted; (Gen. Ord. No. 3, 2015, As Amended, 2-12-15)

3. Such written documentation must contain a detailed description of how and where the leak occurred and be accompanied by a copy of the repair invoice;

4. No leak adjustment shall be considered until the leak has been identified and repaired;

5. No more than one (1) leak adjustment shall be granted per meter during any twelve (12) month period;

6. Current account holder must have at least six (6) months of normal/typical sewage account usage prior to evidence of leak usage at the specified location upon which to calculate an average billing statement; and

7. Only the highest single month of usage charge during the excess water usage shall be considered for adjustment. However, one (1) contiguous month to the highest single month may also be considered for an adjustment of up to fifty percent (50%) of the highest single month adjustment but in no case shall the contiguous month be adjusted lower than the average of the previous six (6) months usage excluding the highest single month originally sought for adjustment. (Gen. Ord. No. 3, 2015, As Amended, 2-12-15; Gen. Ord. No. 8, 2017, 8-10-17)

c. If it is determined that the excess water did enter the City's sewage system, no leak adjustment may be granted

d. Upon determination that all conditions of Subsection a. above have been satisfied, the City shall determine the amount of the leak adjustment and apply a credit to the sewer account. No refunds shall be issued by the City. (Gen. Ord. No. 3, 2011, 2-10-11; Gen. Ord. No. 3, 2015, As Amended, 2-12-15; Gen. Ord. No. 6, 2015, 5-14-15)

### **Sec. 9-113 Vacant Structure Adjustment.**

a. It is the property owner's responsibility to notify the City that a structure has been vacated and the date of termination of electrical service. Such notification shall be made within sixty (60) days of the termination of electrical service. If the electrical service is not terminated to the structure, even though the structure is vacant, no adjustment shall be considered.

b. The property owner may apply for a vacant structure adjustment of the charges assessed against him if each of the following conditions is met:

1. The property owner shall submit written notification to the City Controller within one hundred eighty (180) days of the date of termination of electrical service; and (Gen. Ord. No. 3, 2015, As Amended, 2-12-15)

2. City Controller shall verify with the electric provider the final date of service.

c. Such adjustment shall be made for a maximum of one hundred eighty (180) days of sewage service after the date of termination of electrical service to the structure. Property owner is responsible for any charges incurred beyond the one hundred eighty (180) days after the termination of electrical service.

d. Property owner forfeits the opportunity to seek adjustment if he fails to notify City of such termination of electrical service within one hundred eighty (180) days. (Gen. Ord. No. 3, 2011, 2-10-11; Gen. Ord. No. 3, 2015, As Amended, 2-12-15)

#### **Sec. 9-114 Penalty.**

Any person violating any of the provisions of this Article shall be fined not more than Three Hundred Dollars (\$300.00). Each day's continued violation shall constitute a separate offense. (Gen. Ord. No. 16, 1997, 12-11-97)

#### **Sec. 9-115 Definitions.**

The terms "Eligible Residential Dwelling Unit" and "Monthly Waste and Refuse Collection Costs" shall be defined as follows:

e. Eligible Residential Dwelling Unit. For purposes of this Article, the term "Eligible Residential Dwelling Unit" means a structure located within the City which includes a room or series of rooms located within a building or mobile home and forming a single habitable unit with facilities, which are used, or are intended to be used for living, cooking, eating and sleeping, and is either:

(i) A "Single-Family Residential Dwelling Unit," defined as a residential dwelling unit separated from any other dwelling unit by open space, and designed for occupancy for one person or family;

(ii) A "Multi-Family Residential Dwelling Unit," defined as a building or portion thereof, which contains four (4) or less units, with each dwelling unit being independent of the other; or,

(iii) A "Condominium", defined as any multi-family residential unit where the owner pays separately assessed property taxes.

f. Monthly Waste and Refuse Collection Costs. For purposes of this article the term "Monthly Waste and Refuse Collection Costs" is defined as the total annual bid amount for providing waste and refuse collection and recycling services to all Eligible Residential Dwelling Units in the City, divided by the number of Eligible Residential Dwelling Units receiving said

service; prorated over twelve (12) months of equal payments. (amended by Gen. Ord. No. 14, 2016, 10-13-16)

**Sec. 9-116 Monthly Billings and Minimum Charges.**

The monthly waste and refuse collection fees shall be established as indicated with effective dates as follows:

a. The rate for waste and refuse collection inside the City shall be:

June 1, 2016 Ten Dollars and Twenty-five Cents (\$10.25) per month

July 1, 2017 Ten Dollars and Fifty Cents (\$10.50) per month

July 1, 2018 Ten Dollars and Seventy-five Cents (\$10.75) per month

July 1, 2019 Eleven Dollars (\$11.00) per month

b. The rates established by this Section shall be in addition to the rates charged by the City to operate its municipal sewage works pursuant to Section 9-99; and any other Ordinance establishing rates for the collection and treatment of wastewater by the City's wastewater utility.

c. The rates and charges shall be prepared and billed by the City of Terre Haute and shall be collected in the manner provided by law and ordinance. Said rates and charges may be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners, but such billings shall in no way relieve the owners from liability in the event payment is not made as herein required. The owners of property served which are occupied by tenants shall have the right to examine the collection records of the City for the purpose of determining whether such rates and charges have been paid by such tenants, provided that such examination shall be made at the office in which said records are kept during the hours that such office is open for business.

d. All unpaid fees established by this Section are subject to the same delinquency fees, penalties, and interest authorized for delinquent sewer bills and may be collected by any lawful means, as authorized by Indiana Code 36-9-25, et. al.

**Sec. 9-117 Available Credits.**

a. Any owner-occupant of an Eligible Residential Dwelling Unit who has filed, and been granted:

(i) A claim for an over age 65 deduction for property taxes pursuant to Indiana Code 6-1.1-12-9; or

(ii) A claim for a blind or disabled deduction for property taxes pursuant to Indiana Code 6-1.1-12-1; or

(iii) A claim for a disabled veteran or surviving spouse deduction for property taxes pursuant to Indiana Code 6-1.1-12-13;

is eligible for a twenty-five percent (25%) per month credit from the fee schedule in Section 9-116. A residential parcel may receive only one (1) credit even though the owner-occupant may be eligible under more than one statute listed in Section 9-117(a) above.

b. Any individual or entity receiving a bill for service pursuant to Section 9-116 shall be eligible for a recycling rebate of twenty-five percent (25%) percent per month, to be applied after any credits received under Section 9-117(a), if the individual or entity receiving service through the City's waste and refuse collection service provider at the same service address:

- (i) Contracts for curb side recycling services with the City's waste refuse collection service provider;
- (ii) Maintains an account in good standing with the City; and
- (iii) Continues to hold an active account at the time;

every month for which this rebate is to be applied.

c. Eligibility for the rebate set forth in Section 9-117(b) will be evaluated quarterly by the City and, for those months which the individual or entity remains qualified shall receive a rebate on future service bill(s). Any additional procedure regarding the implementation or application of this credit, other than what is set forth in this Section, shall be established by the Terre Haute Board of Sanitary Commissioners.

d. Any owner-occupant who has filed a claim requesting one of the available credits listed in Section 9-117(a), but does not receive the credit on the sewer bill, must submit a date stamped copy of the Owner's Affidavit requesting one of the deductions.

e. The Common Council shall annually appropriate into the Waste and Refuse Collection Fund an amount equal to the total amount of the credits ("the Credit Amount") granted by this subsection.

**Sec. 9-118 Waste and Refuse Collection Cost Fund.**



The City Controller shall cause the monthly charges collected pursuant to Section 9-116, and any penalties and collection costs collected resulting from delinquent payments, to be paid into a segregated, non-reverting, fund which shall be referred to as the Waste and Refuse Collection Fund. The Waste and Refuse Collection Fund shall be separated from the balance of the revenues of the Wastewater Utility, and shall be used solely for the purpose of paying the City's annual contract for Waste and Refuse Collection Cost, including administrative fees associated with the collection of the charges outlined in Section 9-116.

**Sec. 9-119 Reserved for Future Use.**

**ARTICLE 6. WASTEWATER TREATMENT FACILITIES.<sup>181</sup>**

**Sec. 9-120 Revenue Fund.**

All revenues received on account of the sewage system shall be segregated and kept in a special fund separate and apart from all other funds of the City, which special fund is designated as the "*Revenue Fund*". Out of the Revenue Fund the proper and reasonable expenses of operation, repair, and maintenance of the sewer system (including an allowance for depreciation) shall be paid and the requirements of the Sewage Works Sinking Fund shall be met. The City shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from said sewer system and deposited in the Revenue Fund, and all disbursements made therefrom on account of the operation of the sewer system, and to meet the requirements of the Sewage Works Sinking Fund, also all other financial transactions relating to the sewer system; including the amounts set aside or credited to the Operation and Maintenance Fund, the Sewage Works Sinking Fund and the Sewage Works Improvement Fund, and the cash balances in each of said funds as of the close of the preceding fiscal year. There shall be prepared and furnished to the original purchasers of the bonds and, upon written request, to any owner of the bonds at the time then outstanding, not more than ninety (90) days after the close of each fiscal year, income and expense and balance sheet statements of the sewer system covering the preceding fiscal year, which annual statements shall be certified by the City Controller, or the person charged with the duty of auditing the books and records relating to the said sewer system, or an independent certified public accountant employed for that purpose. Copies of all such statements and reports shall be kept on file in the Office of the City Controller. Any owner or owners of the bonds then outstanding shall have the right at all reasonable times to inspect the sewer system and all records, accounts, and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

From and after the delivery of any bonds issued under the provisions of this Article, all gross revenues of the sewer system shall be set aside and apportioned as follows:

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<sup>181</sup> Editor's Note: Other funds and fiscal procedures are set forth in § 2-110 through § 2-137 of this *Code*. Gen. Ord. No. 4, 1988, in its entirety, continues in effect and is available for public inspection during regular office hours in the City Clerk's Office.

a. On the third Friday of each month there shall be set aside and paid out of the Revenue Fund into the Operation and Maintenance Fund created pursuant to the 1961 Ordinance and continued pursuant to the 1978 Ordinance, an amount considered necessary and sufficient to pay the reasonable current expenses of operating and maintaining the sewer system for the current month, which amount shall be applied as provided in Sec. 9-121 hereof. In the event of a deficiency further transfers may be made from the Revenue Fund in like manner on any subsequent date to the extent necessary to pay the expenses of operation and maintenance actually accrued and payable.

b. After the payment required by the preceding paragraph a. there shall next be set apart and paid out of the Revenue Fund into the Sewage Works Sinking Fund, in monthly installments, amounts as provided in Sec. 9-121 hereof to pay the interest on and principal of the bonds authorized, and any parity bonds as may be issued and outstanding under the conditions and restrictions hereinafter set forth, and to pay all other amounts required to be paid therefrom pursuant to said Sec. 9-121. Computations for such monthly payments into the Sewage Works Sinking Fund shall be made as of November 1 of each year and the amounts to be so set aside monthly and paid into said Sewage Works Sinking Fund shall be not less than:

(i) one-sixth (1/6) of the amount of interest becoming due on the next succeeding interest payment date, plus

(ii) one-twelfth (1/12) of the amount of principal becoming due on the next succeeding November 1, plus

(iii) one-twelfth (1/12) of all paying agents' fees and charges anticipated to become due in the next succeeding twelve (12) month period.

All money in the Sewage Works Sinking Fund shall be held and invested as provided in Sec. 9-123 hereof as a fund separate and apart from all other City funds.

c. After making the payments into the funds as prescribed in the preceding paragraphs, if there are revenues and income of the sewer system in excess of the amount estimated to be in like manner transferred and paid into said special funds during the succeeding twelve (12) months, there shall then be set apart and paid into the Sewage Works Improvement Fund in accordance with Sec. 9-121 hereof such excess revenues, which shall be used solely to pay costs of improvements, repairs, additions and extensions of the sewer system. Said fund shall be held and invested as provided in Sec. 9-1239 hereof, and all accumulations in said fund shall be kept separate and apart from all other funds of the City. (Gen. Ord. No. 4, 1988, § 11, 4-19-88)

**Sec. 9-121 Designation of Operation and Maintenance Fund and Application of Monies Therein; Continuation of Sewage Works Sinking Fund; Establishment of Debt Service Account and Reserve Account Therein.**

a. The special fund created under the 1961 Ordinance from which the necessary and reasonable current expenses of operating and maintaining the sewage system for the then current

month is designated the "*Operation and Maintenance Fund*." The Operation and Maintenance Fund shall be continued until all of the bonds and any parity bonds have been paid in full. Moneys set aside and paid into the Operation and Maintenance Fund shall be used to pay the current expenses of operation, maintenance and repair of the sewage system and, except as otherwise provided in this Article, for no other purposes, such operation, maintenance and repair to include, among other things, all ordinary and usual expenses for such purposes (which may include expenses not annually recurring), premiums for insurance, all engineering expenses relating to such operation, maintenance and repair and any other expenses permitted under the 1961 Ordinance, the 1978 Ordinance and this Article or by law, including particularly *I.C. § 36-9-23*.

b. The special fund designated "*Sewage Works Sinking Fund*" created by the 1961 Ordinance and continued pursuant to the 1978 Ordinance as the fund for the payment of all bonds which by their terms are payable from the net revenues of the sewage system of the City, is designated as the special fund for the payment of the principal of and interest on the bonds authorized by this Article and the other parity bonds and the payment of any amounts authorized pursuant to said 1961 Ordinance and the 1978 Ordinance. The Sewage Works Sinking Fund shall be continued until all of the bonds issued under the 1961 Ordinance, the 1978 Ordinance, and this Article have been paid in full. Except as otherwise provided herein, monies shall be set aside and paid into said Sewage Works Sinking Fund as provided in Section 10 of the 1961 Ordinance, Section 9 of the 1978 Ordinance and this Sec. 9-121.

There shall be set aside and paid into said Sinking Fund monthly as available, or as necessary, a sufficient amount of the net revenues of the sewer system for the payment of:

(1) the interest on all bonds payable from said Sinking Fund as such interest shall become due,

(2) the necessary fiscal agency charges for paying said bonds and interest,

(3) the principal of all bonds payable from said Sinking Fund as such principal shall become due, and

(4) an additional amount as a margin of safety and for the payment of premiums upon bonds redeemed by call or purchase, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than fifteen percent (15%) of all other amounts so required to be paid into said Sinking Fund. The bonds issued pursuant to the 1961 Ordinance and the 1978 Ordinance and the bonds authorized by this Article shall be of equal priority in respect to the payment of interest and principal from the moneys in said Sewage Works Sinking Fund. The monthly payments into said Sinking Fund shall be in an amount equal to at least one twelfth (1/12) of the amount required for such payments during the then next succeeding twelve (12) calendar months and shall continue until such time as said fund shall contain an amount sufficient to pay all of the herein authorized bonds then outstanding, together with the interest thereon to the dates of maturity thereof. In addition to said required monthly payments into the Sewage Works Sinking Fund, all of the net revenues of the sewage system not used in making said required sinking fund payments shall be set aside and paid into said Sinking

Fund monthly, as available, until there has been accumulated in said Sewage Works Sinking Fund, over and above said required payments, as an additional reserve, an amount equal to the sum of the principal of and interest on all then outstanding bonds which will be payable during the then next succeeding twelve (12) calendar months. Thereafter, said reserve fund shall be maintained at such level, and additional amounts of net revenues shall be deposited in said fund from time to time to the extent necessary to maintain such level.

c. There is created within the Sewage Works Sinking Fund, a *Debt Service Account* and a *Reserve Account*. Monies set aside to pay principal and interest on the bonds shall be credited to the Debt Service Account. Monies set aside to pay necessary fiscal agency charges, monies set aside as a margin of safety and to pay premiums upon bonds called for redemption and monies set aside as an additional reserve in an amount equal to the sum of the principal and interest on the bonds payable during the next succeeding twelve (12) calendar months, all as provided in the next succeeding paragraph, shall be credited to the Reserve Account. Anything herein to the contrary notwithstanding, no further deposits to the credit of the Reserve Account shall be required after there has been accumulated therein the amounts equal to the margin of safety and the additional reserve referred to in this Sec. 9-121.

In no event shall any part of the Sewage Works Sinking Fund be used in calling bonds for redemption prior to maturity, except to the extent that the amount then in said Sinking Fund exceeds the amount required to pay the principal of the bonds payable therefrom which will mature within a period of twelve (12) calendar months next following the date of such redemption, together with all interest on the bonds payable in said period. Any such excess of funds above said required level may also be used in purchasing outstanding bonds at a price less than the then applicable redemption price, if first approved by the Board. Monies in the Sewage Works Sinking Fund shall not be used for any other purpose whatsoever except as provided in this Article. (Gen. Ord. No. 4, 1988, § 12, 4-19-88)

#### **Sec. 9-122 Application of Surplus Revenues; Sewage Works Improvement Fund.**

In the event all required payments into the Sewage Works Sinking Fund have been met to date and there has been accumulated the additional reserve in the Sewage Works Sinking Fund required pursuant to Sec. 9-121 hereof equal to the sum of the principal and interest on the then outstanding bonds which will be payable during the then next succeeding twelve (12) calendar months, and there has been accumulated funds in the Operation and Maintenance Fund sufficient for operation, repair, and maintenance of the sewer system for the then next succeeding twelve (12) calendar months, and for depreciation, then any excess revenues of the sewer system may be placed in the Sewage Works Improvement Fund and used to pay costs of improvements, betterments, extensions, enlargements, and additions to the sewer system. No revenues of the sewer system shall be deposited in or credited to the Sewage Works Improvement Fund which will interfere with the requirements of the Sewage Works Sinking Fund, the accumulation of the required reserves therein, or with the requirements as to reserving funds in the Operation and Maintenance Fund for the operation, maintenance, and repair of the sewer system, and for depreciation. All or any portion of the moneys accumulated in the Operation and Maintenance Fund for the next succeeding twelve (12) calendar months shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest

on the bonds payable from said Sinking Fund. If any money is so transferred, such revenue shall be replenished to the required maximum amount by monthly payments equal to one twenty-fourth (1/24) of the amount required to so replenish the reserve. (Gen. Ord. No. 4, 1988, § 13, 4-19-88)

**Sec. 9-123 Sanitary District.**<sup>182</sup>

**Sec. 9-124 through Sec. 9-129 Reserved for Future Use.**

## **ARTICLE 7. ILLICIT CONNECTIONS AND DISCHARGE REGULATION.**<sup>183</sup>

**Sec. 9-130 Purpose/Intent.**

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the City of Terre Haute, Indiana through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- a. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user;
- b. To prohibit illicit connections and discharges to the municipal separate storm sewer system; and
- c. To establish legal authority to carry out all inspections, surveillance and monitoring procedures necessary to ensure compliance with this Article.

**Sec. 9-131 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Article:

- a. **Authorized Enforcement Agency.** The City of Terre Haute, Indiana Wastewater Treatment Superintendent (MS4 Operator) his employees or designees.
- b. **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention, and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance

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<sup>182</sup> Editor's Note: I.C. § 36-9-25-1 through I.C. § 36-9-25-39, address sanitation districts in cities which adopt the state law by proper ordinance.

<sup>183</sup> Editor's Note: General Ordinance No, 2, 2008, passed by the Common Council on May 8, 2008, created Article 7. Illicit Connections and Discharge Regulations.

systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

c. **Clean Water Act.** The Federal Water Pollution Control Act (33 *U.S.C.* § 1251 *et seq.*) and any subsequent amendments thereto.

d. **Construction Activity.** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) acre or more, as defined in 327 *IAC* 15-5. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition. This term does not include routine ditch or road maintenance or minor landscaping projects.

e. **Hazardous Materials.** Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

f. **Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 9-135 of this Article.

g. **Illicit Connections.** An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Authorized Enforcement Agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Authorized Enforcement Agency.

h. **Industrial Activity.** Activities subject to NPDES Industrial Storm Water Permits as defined in 327 *IAC* 15-6.

i. **Municipal Separate Storm Sewer System (MS4).** The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Terre Haute and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

j. **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** A permit issued by the EPA (or by a state under authority delegated pursuant to 33 *U.S.C.* § 1342(b)) that authorizes the discharge of pollutants to waters of the

United States, whether the permit is applicable to an individual, group, or general area-wide basis.

k. **Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water.

l. **Person.** Any individual, association, organization, partnership, firm, corporation, or other entity recognized by law and acting as either the owner or as the owner's agent.

m. **Pollutant.** Any substance which causes or contributes to pollution or causes an alteration of the quality of the waters of the United States. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

n. **Premises.** Any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

o. **Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

p. **Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

q. **Storm Water Pollution Prevention Plan.** A document which describes Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the Maximum Extent Practicable.

r. **Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

#### **Sec. 9-132 Applicability.**

This Article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Authorized Enforcement Agency.

#### **Sec. 9-133 Responsibility for Administration.**

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the City of Terre Haute, through the Board of Public Works and Safety, to persons or entities in the beneficial interest of or in the employ of the City.

**Sec. 9-134 Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this Article imposes requirements which are more protective of human health or environment than those set forth elsewhere, the provisions of this Article shall prevail. Approvals and permits granted under this Article are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance with all applicable federal, state and local laws and regulations shall be required, including rules promulgated under authority of this Article.

**Sec. 9-135 Discharge Prohibitions.**

a. Prohibition of Illegal Discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this Article: water line flushing or other potable water sources, landscaping irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated – typically less than one part per million chlorine), fire fighting activities, irrigation water, street wash water, and any other water source not containing pollutants.

2. Discharges or flow from firefighting and other discharges specified in writing by the Authorized Enforcement Agency as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires a verbal notification to the Authorized Enforcement Agency prior to the time of the test.



4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency or the Indiana Department of Environmental Management, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

b. Prohibition of Illicit Connections.

1. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection is permissible under law or practices applicable or prevailing at the time of the connection.

3. A person is considered to be in violation of this Article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

4. Improper connections in violation of this Article must be disconnected and redirected, as necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Authorized Enforcement Agency.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Authorized Enforcement Agency requiring that such locating be completed. Such notice shall specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer system or other discharge point be identified. Results of these investigations are to be documented and provided to the Authorized Enforcement Agency.

**Sec. 9-136 Suspension of MS4 Access.**

a. Suspension Due to Illicit Discharges in Emergency Situations. The Authorized Enforcement Agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

b. Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this Article may have their MS4 access terminated if such termination

would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the Authorized Enforcement Agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Authorized Enforcement Agency.

c. Emergency Cease and Desist Orders. When the Authorized Enforcement Agency finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has/have caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Authorized Enforcement Agency may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

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

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Authorized Enforcement Agency may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Authorized Enforcement Agency that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article. A person that is responsible, in whole or in part, for any discharge presenting imminent danger shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Authorized Enforcement Agency within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

#### **Sec. 9-137 Industrial or Construction Activity Discharges: Submission of NOI.**

a. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Authorized Enforcement Agency prior to the allowing of discharges to the MS4.

b. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with construction or industrial activity shall submit a copy of the Notice of Intent (NOI) to the Authorized Enforcement Agency at the same time the operator submits the original Notice of Intent to the IDEM as applicable.

c. The copy of the Notice of Intent may be delivered to the Authorized Enforcement Agency either in person or by mailing it to:

City of Terre Haute Wastewater Utility  
Re: Notice of Intent to Discharge Storm Water  
3200 State Road 63  
Terre Haute, IN 47802

d. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial or construction activity without having submitted a copy of the Notice of Intent to do so to the Authorized Enforcement Agency.

**Sec. 9-138 Monitoring of Discharges.**

a. Applicability. This Section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

b. Access to Facilities.

1. The Authorized Enforcement Agency shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Authorized Enforcement Agency.

2. Facility operators shall allow the Authorized Enforcement Agency ready access to all parts of the premises for the purposes of inspection, sampling, examination and copying of records that must be kept under the conditions of an NPDES permit to discharge storm water, and the performance of any additional duties as defined by state and federal law.

3. The Authorized Enforcement Agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Authorized Enforcement Agency to conduct monitoring and/or sampling of the facility's storm water discharge.

4. The Authorized Enforcement Agency has the right to require the discharger to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

5. 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 operator at the written or oral request of the Authorized Enforcement Agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Authorized Enforcement Agency access to a permitted facility is a violation of a storm water discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Authorized Enforcement Agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.

7. If the Authorized Enforcement Agency has been refused access to any part of the premises from which the storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community or the environment, then the Authorized Enforcement Agency may seek issuance of a search warrant from any court of competent jurisdiction.

**Sec. 9-139 Requirement To Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.**

The Authorized Enforcement Agency shall establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

**Sec. 9-140 Watercourse Protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain

existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

#### **Sec. 9-141 Notification of Spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Authorized Enforcement Agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Authorized Enforcement Agency within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

#### **Sec. 9-142 Violations and Enforcement.**

a. Violations. It shall be a violation for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who has violated or continues to violate the provisions of this Article may be subject to the enforcement actions outlined in this Article or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the Authorized Enforcement Agency is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Authorized Enforcement Agency is authorized to seek costs of the abatement as outlined in Sec. 9-145.

b. Warning Notice. When the Authorized Enforcement Agency finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Authorized Enforcement Agency may serve upon that person a written Warning Notice. Such Warning Notice shall specify the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Authorized Enforcement Agency to take any action, including emergency action or any other enforcement action, without issuing a Warning Notice.

c. Notice of Violation. Whenever the Authorized Enforcement Agency finds that a person has violated a prohibition or failed to meet a requirement of this Article, the Authorized

Enforcement Agency may order compliance by written Notice of Violation to the responsible person. Emergency notifications may be made by an authorized employee. The Notice of Violation shall contain:

1. The name and address of the alleged violator;
2. The address, when available, or description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the Authorized Enforcement Agency by filing a written notice of appeal within five (5) days of service of notice of violation; and
7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
  2. The elimination of illicit connections or discharges;
  3. That violating discharges, practices or operations shall cease and desist;
  4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  5. Payment of a fine to cover administrative and remediation costs; and
  6. The implementation of source control or treatment BMPs.
- d. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**Sec. 9-143 Appeal of Notice of Violation.**

Any person receiving a Notice of Violation may appeal the determination before the Board of Public Works and Safety. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the Board of Public Works and Safety shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Board of Public Works and Safety shall be final.

**Sec. 9-144 Enforcement Measures After Appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) days of the decision of the Board of Public Works and Safety, the representatives of the Authorized Enforcement Agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agency or person in possession of any premises to refuse to allow the governmental agency or designated contractor to enter upon the premises for the purposes set forth above.

**Sec. 9-145 Cost of Abatement of the Violation.**

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of the abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the Board of Public Works and Safety or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

**Sec. 9-146 Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Authorized Enforcement Agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Sec. 9-147 Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Authorized Enforcement Agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**Sec. 9-148 Violations Deemed a Public Nuisance.**

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to the environment or public health, safety, and welfare, and is declared and deemed a nuisance, and

may be summarily abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Sec. 9-149 Civil Penalty.**

Any person that has violated or continues to violate the provisions of this Article shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) per violation per day.

The Authorized Enforcement Agency may recover all attorney's fees, court costs, consultant costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

**Sec. 9-150 Criminal Prosecution.**

Any person that has violated or continues to violate this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to applicable criminal penalties per violation per day and/or imprisonment as provided by law. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**Sec. 9-151 Remedies Not Exclusive.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state, or local law. It is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.

**ARTICLE 8. CONSTRUCTION SITE AND POST-CONSTRUCTION  
SITE STORM WATER CONTROL.<sup>184</sup>**

**Sec. 9-160 Purpose/Intent.**

a. Site Construction Control. The purpose of this Article is to establish requirements for storm water discharges from construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

1. To regulate construction activities disturbing more than one (1) acre of land as governed by 327 IAC 15-5; and

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<sup>184</sup> Editor's Note: Article 8. General Ordinance No, 3, 2008, passed by the Common Council on May 8, 2008, created Article 8. Construction Site and Post-Construction Site Storm Water Control.



2. To require construction site operators to develop and implement a Construction Plan including a Storm Water Pollution Prevention Plan in order to receive a Building Permit from the City.

3. Minimize increases in storm water runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels.

4. Minimize increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality.

5. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.

6. Reduce storm water runoff rates and volumes, soil erosion, and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

b. Post-Construction Control. The purpose of this Article is to implement planning procedures that promote and improve water quality. The planning procedures shall include, at a minimum, the post-construction requirements of 327 IAC 5-5-6.5(a)(8). The City may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants in storm water run-off. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

1. Buffer strip and riparian zone preservation;

2. Filter strip creation;

3. Minimization of land disturbance and surface imperviousness;

4. Minimization of directly connected impervious areas;

5. Maximization of open space; and

6. Direct the community's growth away from sensitive areas and towards areas that can support the growth without compromising water quality.

#### **Sec. 9-161 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Article. Additional definitions for terms contained within this Article are provided at Sec. 9-131.

a. **Authorized Enforcement Agency.** The City of Terre Haute, Indiana Wastewater Treatment Superintendent (MS4 Operator) his employees or designees.

b. **Best Management Practices (BMPs).** Structural or nonstructural practices, or a combination of practices, designated to act as effective, practicable means of minimizing the impacts of development and human activities on water quality. Traditional structural BMPs, including extended detention dry ponds, wet pond, infiltration measures, sand filtration systems, etc., are now common elements of most new development projects. Structural BMPs rely heavily on gravitational settling and/or the infiltration of soluble nutrients through a porous medium for pollutant removal. Nonstructural BMPs, which may be used independently or in conjunction with structural BMPs range from programs that increase public awareness to prevent pollution, to the implementation of control-oriented techniques (such as bioretention and stormwater wetlands) that utilize vegetation to enhance pollutant removal and restore the infiltrative capacity of the landscape.

c. **Construction Plan.** A representation of a project site and all activities associated with the project including a Storm Water Pollution Prevention Plan. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A Storm Water Pollution Prevention Plan is a part of the Construction Plan.

d. **Construction Site Access.** A stabilized stone surface at all points of ingress or egress to a project site for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

e. **Contractor and or Subcontractor.** An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services in the project site.

f. **Developer.** Any person financially responsible for construction activity; or an owner of property who sells or leases, or offers for sale or lease any lots in a subdivision.

g. **Erosion.** Detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

h. **Erosion Control.** Any measure that prevents erosion.

i. **Grading.** The cutting and filling of the land surface to a desired slope or elevation.

j. **Hotspot.** An area where the land use or activities are considered to generate runoff with concentrations of pollutants in excess of those typically found in storm water.

k. **Impervious Surface.** Surfaces, such as pavement and rooftops, that prevent the infiltration of storm water into the soil.

l. **Indiana Storm Water Quality Manual.** A reference manual developed by the State of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural storm water management practices.

m. **Infiltration Measure.** Practices that capture and temporarily store the design storm volume before allowing it to infiltrate into the soil. These practices include infiltration trenches, infiltration basins, dry wells, and underground infiltration practices.

n. **Land Disturbance or Land Disturbing Activity.** Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

o. **Measurable Storm Event.** A precipitation event that results in a total measured precipitation accumulation equal to or greater than, one-half inch (0.5”) of rainfall.

p. **Project Site.** The entire area on which construction activity is to be performed.

q. **Project Site Owner.** A person required to submit the NOI and NOT letters to the Authorized Enforcement Agency and IDEM and is required to comply with the provisions of this Article, including either of the following:

1. A developer; or

2. A person who has financial and operational control of construction activities and project plans and specifications, including the ability to make modifications to those plans and specifications.

r. **Sediment.** Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its place of origin by air, water, gravity, or ice and has come to rest on the earth’s surface.

s. **Sediment Control.** Measures that prevent sediment from leaving a project site.

t. **Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

u. **Subdivision.** Any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

v. **Technical Review and Comment Form.** A form issued by the Authorized Enforcement Agency stating that the Storm Water Pollution Prevention Plan (SWPPP) is adequate or stating revisions needed in the SWPPP.

w. **Trained Individual.** An individual who is trained and experienced in the principles of storm water quality, including erosion and sediment control as may be

demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make judgments regarding storm water control or treatment and monitoring.

x. **Waters of the United States.** A term used in federal regulations that defines all water bodies regulated as waters of the U.S. It includes:

1. All water which may be susceptible to use in interstate or foreign commerce;
2. All interstate waters, including interstate wetlands;
3. All other waters, such as intrastate lakes, rivers, streams (including intermittent streams), mud flats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes or natural ponds; the use, degradation, or destruction of which could affect interstate or foreign commerce including any such waters;
4. All impoundments of waters otherwise defined as waters of the U.S.;
5. Tributaries of waters identified in this section;
6. The territorial seas;
7. Wetlands adjacent to waters.

**Sec. 9-162 Applicability.**

a. This Article covers any new development or re-development construction site resulting in the disturbance of one (1) acre or more of total land area and other types of development specified in Sec. 9-172 regardless of the disturbed area. Persons must meet the general permit rule applicability requirements under 327 IAC 15-2-3. This Article also applies to disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land within the corporate limits of the City.

b. All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of Construction Plans.

c. This Article does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.

d. This Article does not apply to the Indiana Department of Transportation when it conducts its business within the City's corporate limits under its NPDES permit under 327 IAC 15.

e. This Article does not apply to the following types of activities:

1. Agricultural land disturbance activities;
2. Forest harvesting activities.

f. This Article does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

1. Landfills that have been issued a certification of closure under 329 IAC 10.
2. Coal mining activities permitted under I.C. § 14-34.
3. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

**Sec. 9-163 Responsibility for Administration.**

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the City through the Board of Public Works and Safety to persons or entities in the beneficial interest of or in the employ of the City.

**Sec. 9-164 Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this Article imposes requirements which are more protective of human health or environment than those set forth elsewhere, the provisions of this Article shall prevail. Approvals and permits granted under this Article are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance with all applicable federal, state and local laws and regulations shall be required, including rules promulgated under authority of this Article.

**Sec. 9-165 Responsibility of Construction Site Owner.**

- a. The project site owner has the following responsibilities:
  1. Ensure that, prior to the initiation of any land disturbing activities, a sufficient Construction Plan is completed and submitted to the Authorized Enforcement Agency and approved by the Authorized Enforcement Agency as discussed in Sec. 9-166 of this Article.
  2. Complete and submit to the Authorized Enforcement Agency and the Indiana Department of Environmental Management (IDEM) a sufficient Notice of Intent (NOI) letter and

notification from Authorized Enforcement Agency indicating the Construction Plans are sufficient to comply with the requirements of 327 IAC 15-5-5.

3. Make application for a Building Permit and any other permits required by the City in accordance with procedures established by the City.

4. Ensure compliance with this Article during:

(a) the construction activity; and

(b) implementation of the Construction Plan.

5. Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this Article and the approved Construction Plan.

6. Provide the Authorized Enforcement Agency and IDEM with a sufficient Notice of Termination (NOT) letter, in compliance with the requirements of 327 IAC 15-5-8.

b. For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.

c. For an individual lot where land disturbance is expected to be one (1) acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:

1. Ensure that, prior to the commencement of any land disturbing activity, a sufficient Construction Plan is completed and submitted to and approved by the Authorized Enforcement Agency;

2. Complete his or her own Notice of Intent (NOI) letter and submit it to the Authorized Enforcement Agency and IDEM;

3. Apply for a Building Permit and any other permits required by the City in accordance with the procedures established by the City.

d. For an individual lot where the land disturbance is less than one (1) acre and the lot lies within a project site permitted under this rule, submittal of a Notice of Intent (NOI) letter and Construction Plan shall not be required. The individual lot operator shall:

1. Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the City;

2. Comply with the provisions set forth in Sec. 9-168 of this Article; and

3. Apply for a Building Permit and any other permits required by the City in accordance with the procedures established by the City.

**Sec. 9-166 Construction Plan Submittal, Review and Approval.**

a. A complete Storm Water Pollution Prevention Plan and erosion and sediment control plan shall be submitted to the Authorized Enforcement Agency for approval. At the time of submittal, the date and time will be recorded.

b. The sufficiency of the Construction Plan shall be based upon Rule 5 regulations, the design criteria described in the current City of Terre Haute Standards and Specifications, and the design criteria described in the current Indiana Storm Water Quality Manual, as revised and amended from time to time.

c. Each applicant shall bear the name(s) and address(es) of the owner or developer of the project site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.

d. Each application shall include a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the Storm Water Pollution Prevention Plan. The Authorized Enforcement Agency will review each application for a Rule 5 permit to determine its conformance with the provisions of this regulation and Rule 5. Within twenty-eight (28) days after receiving an application, the Authorized Enforcement Agency shall, in writing:

1. Approve the erosion and sediment control plan and SWPPP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this regulation, and issue the Technical Review and Comment Form stating that the "Plan is Adequate";

2. Provide a Technical Review and Comment Form stating that the "Plan is Deficient" and indicating the reason(s) and procedure for submitting a revised application and/or submission.

e. The Technical Review and Comment Form from the Authorized Enforcement Agency stating that the "Plan is Adequate" and a Building Permit shall be obtained prior to the initiation of any land disturbing activities.

f. Failure of the Authorized Enforcement Agency to act on an original or revised application within twenty-eight (28) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by written agreement between the applicant and the Authorized Enforcement Agency.

g. After receiving a Technical Review and Comment Form stating that the "Plan is Adequate", if revisions to the Construction Plan require a change in measures appropriate to control the quality or quantity of storm water runoff, then revised plans must be submitted to the

Authorized Enforcement Agency and receive the approval of the Authorized Enforcement Agency prior to implementation of the modified plan.

h. The applicant shall apply for and receive a Building Permit from the Authorized Enforcement Agency and file a performance bond, letter of credit or other improvement surety in an amount deemed sufficient by the City. The surety shall, at a minimum, cover all costs of improvements, the repair of improvements, landscaping maintenance and inspection costs.

i. After receiving a Technical Review and Comment Form stating that the “Plan is Adequate” from the Authorized Enforcement Agency, and the Building Permit as well as any other permits required by the City, and at least forty-eight (48) hours prior to the start of construction, the following shall be submitted to the Authorized Enforcement Agency and IDEM:

1. Notice of Intent (NOI) Form;
2. A copy of the Technical Review and Comment Form stating that the “Plan is Adequate”; and
3. Proof of Publication as required by 327 IAC 15-5-5(9).

j. The project site owner must submit a Notice of Termination (NOT) letter to IDEM and transmit a copy of the NOT letter to the Authorized Enforcement Agency when all land disturbing activities have been completed, the entire project site has been stabilized and all temporary erosion and sediment control measures have been removed.

k. Upon receipt of the NOT, the Authorized Enforcement Agency shall make a final inspection of the site. Upon satisfaction that all conditions have been addressed the project site owner shall submit a written Surety Release Request to the City.

#### **Sec. 9-167 General Requirements for Storm Water Quality Control.**

All storm water quality measures and erosion and sediment controls necessary to comply with this Article must be implemented in accordance with the Construction Plan and be sufficient to satisfy the following requirements:

a. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.

b. Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.



c. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.

d. Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is consistent with all applicable statutes and regulations.

e. Storm water run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.

f. The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information.

1. A copy of the completed NOI letter and the NPDES permit number, where applicable.

2. A copy of the Building Permit issued by the City.

3. Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.

4. Location of the Construction Plan if the project site does not have an on-site location to store the plan.

g. The NPDES permit and posting of the notice under Subsection (f) does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.

h. The Storm Water Pollution Prevention Plan shall serve as a guideline for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this Article, all measures necessary to adequately prevent polluted storm water run-off.

i. The project owner shall inform all general contractors, construction management firms, land disturbance or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this Article and the conditions and standards of the Storm Water Pollution Prevention Plan and the schedule for proposed implementation.

j. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.

k. Appropriate measures shall be planned and installed as part of an erosion and sediment control system.

l. All storm water quality measures must be designed and installed under the guidance of a trained individual.

m. Collected run-off leaving a project site must be either discharged directly to a combined sewer, storm sewer, a well-defined stable receiving channel, or a natural outlet approved by the Authorized Enforcement Agency, or diffused and released to adjacent property without creating a nuisance or causing an erosion, sedimentation or pollutant problem to the adjacent property owner.

n. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.

o. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.

p. Unvegetated areas that are scheduled or likely to be left inactive for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent (70%) shall be re-stabilized using appropriate methods to minimize the erosion potential.

q. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.

r. A self-monitoring program that includes the following must be implemented:

1. A trained individual shall perform a written evaluation of the project site:

- (a) by the end of the next business day following each 0.5 inch of rain; and
- (b) at a minimum of one (1) time per week.

2. The evaluation must:

- (a) address the maintenance of existing storm water quality measures to ensure they are functioning properly; and
- (b) identify additional measures necessary to remain in compliance with all applicable laws and ordinances; and

(c) be made available to the Authorized Enforcement Agency and IDEM within forty-eight (48) hours of a request.

3. Written evaluation reports must include:

(a) the name of the individual performing the evaluation;

(b) the date of the evaluation;

(c) problems identified at the project site;

(d) details of corrective actions recommended and completed;

(e) All evaluation reports for the project site must be made available to the Authorized Enforcement Agency within forty-eight (48) hours of a request.

s. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

t. Final stabilization of a project site is achieved when:

1. all land disturbance activities have been completed and a uniform, evenly distributed perennial vegetative cover with a density of seventy percent (70%) without large bare areas has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and

2. construction projects on land used for agricultural purposes are returned to their preconstruction agricultural uses or disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in Subsection 1 above.

#### **Sec. 9-168 General Requirements for Individual Building Lots within a Permitted Project.**

All storm water quality measures, including erosion and sediment control, necessary to comply with this Article must be implemented in accordance with the Construction Plan and be sufficient to satisfy the following requirements:

Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

a. The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.

- b. Installation and maintenance of a stable construction site access.
- c. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
- d. Sediment discharge and tracking from each lot must be minimized throughout the land disturbance activities on the lot until permanent stabilization has been achieved.
- e. Clean-up of sediment that is either tracked or washed onto road. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
- f. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- g. For individual residential lots, final stabilization meeting the criteria in Sec. 9-167 (t) of this Article will be achieved when the individual lot operator:
  - 1. completes final stabilization; or
  - 2. has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

**Sec. 9-169 Monitoring of Discharges.**

The Authorized Enforcement Agency shall have authority to monitor discharges from construction sites covered under this Article as described in General Ordinance No. 2, 2008 Illicit Connections and Discharge Regulation.

**Sec. 9-170 Requirement To Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.**

The Authorized Enforcement Agency shall establish requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs

shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

**Sec. 9-171 Construction Site Inspection.**

a. A self-monitoring program by the project site owner is required during construction of any project regulated by this Article. A trained individual employed or retained by the project site owner shall prepare and maintain a written evaluation of the project site by the end of the next business day following each measurable storm event and at a minimum of one (1) time per week.

b. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly; and identify additional measures necessary to remain in compliance with all applicable statutes and rules.

c. Written evaluation reports must include the following:

1. the name of the individual performing the evaluation;
2. the date of the evaluation;
3. problems identified at the project site; and
4. details of corrective actions recommended and completed.

c. All evaluation reports for the project site must be made available to the Authorized Enforcement Agency, IDEM, or the United States Environmental Protection Agency within forty-eight (48) hours of a request.

d. All persons engaging in construction activities on a project site must comply with the Storm Water Pollution Prevention Plan, this Article, Rule 5, and the City of Terre Haute Construction Standards and Specifications.

e. The Authorized Enforcement Agency will perform inspections and provide recommendations to evaluate the installation, implementation, and maintenance of control measures and management practices at any project site involved in construction activities. Construction project sites will be prioritized based on the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

f. If after a recommendation is provided to the project site owner, corrective action is not taken, the Authorized Enforcement Agency will pursue enforcement pursuant to Sec. 9-173.

**Sec. 9-172 Post-Construction Controls for New Development or Redevelopment.**

a. On areas that undergo new development or redevelopment, site construction resulting in disturbance of one (1) acre or more total land area, the project site owner must submit to the Terre Haute Department of Engineering, a Storm Water Pollution Prevention Plan (SWPPP) that would show placement of appropriate post construction BMP(s) from a pre-approved list of BMPs specified in the Terre Haute Standards and Specifications. The SWPPP submittal shall include an Operation and Maintenance Manual for all post construction BMP(s) included in the project and a notarized Maintenance Agreement, consistent with the sample agreement provided in the Terre Haute Standards and Specifications, providing for the long-term maintenance of those BMPs, both of which shall be recorded with the deed for the property on which the project is located. The noted BMPs must be designed, constructed, and maintained according to the guidelines provided or referenced in the City of Terre Haute Standards and Specifications to provide an 80% removal rate of Total Suspended Solids (TSS) at the 50-125 micron range. Practices other than those specified in the pre-approved list may be utilized. However, the burden of proof, as to whether the performance and ease of maintenance of such practices will be according to the guidelines provided in the Terre Haute Standards and Specification, would be placed with the applicant. Details regarding the procedures and criteria for consideration for acceptance of such BMPs are provided in the Terre Haute Standards and Specifications. The Terre Haute Department of Engineering shall have full technical and administrative approval authority on the application and design of all post construction BMPs, conditions, definitions, and submittal requirements of construction plans and specifications and related documents as defined in 327 IAC 15-5-6.5(a)(8).

b. Any development or redevelopment, regardless of disturbed area, discharging to infiltration measures shall be required to install pretreatment BMPs in accordance with the Terre Haute Standards and Specifications.

c. Hotspot developments which produce higher levels of pollutants and/or present a higher potential risk for spills, leaks, or illicit discharges regardless of the disturbed area may be required to install pretreatment BMPs at the discretion of the Authorized Enforcement Agency.

d. Gasoline outlets and refueling areas must install appropriate practices to reduce lead, copper, zinc, and other hydrocarbons in stormwater runoff. These requirements will apply to all new facilities and existing facilities that replace their tanks.

### **Sec. 9-173 Post Construction Storm Water Quality Submittals.**

a. All planned post construction BMPs shall be indicated on the submitted plans with design calculations included. The calculation methods as well as the type, sizing, and placement of all BMPs shall meet the design criteria, standards, and specifications outlined in the Indiana Stormwater Quality Manual and/or the City of Terre Haute Standards and Specifications.

b. Written operational and maintenance plans shall be submitted for all planned structural post construction BMPs to ensure long-term maintenance and functionality.

**Sec. 9-174 Post Construction Site Inspection and Maintenance.**

a. All post construction BMPs shall be inspected and maintained in good condition by the owner, in accordance with the Terre Haute Standards and Specifications, the Indiana Storm Water Quality Manual, and/or the post construction operations and maintenance manual to provide the intended storm water quality benefits. Following construction completion, maintenance of BMPs shall be the long-term responsibility of the facility's owner.

b. Post construction BMPs shall not be altered, revised, or replaced except in accordance with the approved plans, or in accordance with approved amendments or revisions to the plans.

c. The Authorized Enforcement Agency have the authority to perform long-term, post construction inspection of all public or privately owned BMPs. The inspections will follow the operation and maintenance procedures included in the Terre Haute Standards and Specifications, the Indiana Stormwater Quality Manual, or the operation and maintenance plan submitted with the approved plans for each specific BMP. The inspection will cover physical conditions, available water quality storage capacity, and operational condition of key facility elements. Noted deficiencies and recommended corrective action will be notified by the Authorized Enforcement Agency and will be required to take all necessary measures to correct such deficiencies. If the owner fails to correct the deficiencies within the allowed time period, as specified in the notification letter, the Authorized Enforcement Agency will pursue enforcement actions.

**Sec. 9-175 Enforcement.**

a. Enforcement of this Article shall be subject to the severity of the infraction and the construction site operator's efforts to comply. The Authorized Enforcement Agency shall reserve the right to interpret enforcement on a case by case basis. Tiered enforcement will be practiced at the Authorized Enforcement Agency's discretion. The tiered enforcement may include:

1. Verbal warning to the construction site operator to make corrections.
2. Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.
3. Warning of Non-Compliance with directions to the construction site operator that site conditions require immediate action.
4. Stop Work Order.
5. Revocation of Building Permit.

b. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**Sec. 9-176 Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Authorized Enforcement Agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Sec. 9-177 Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Authorized Enforcement Agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**Sec. 9-178 Civil Penalty.**

Any person that has violated or continues to violate the provisions of this Article shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) per violation per day.

The Authorized Enforcement Agency may recover all attorney's fees, court costs, consultant costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

**Sec. 9-179 Violations Deemed a Public Nuisance.**

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Sec. 9-180 Remedies Not Exclusive.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state, or local law. It is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.



**ARTICLE 7. WATERWORKS REGULATIONS.<sup>185</sup>**

**ARTICLE 8. WATERWORK RATES AND CHARGES.<sup>186</sup>**

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<sup>185</sup> Editor's Note: The City of Terre Haute does not own or regulate a waterworks system, therefore, Article 7 was removed in the 2003 recodification.

<sup>186</sup> Editor's Note: The City of Terre Haute does not own or regulate a waterworks system, therefore, Article 8 was removed in the 2003 recodification.