

City of Rochester, Indiana

Wastewater Department

Sewer Use Ordinance

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Prepared by:



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ORDINANCE NO. 2021-XX

SECTION I – GENERAL PROVISIONS.

A. PURPOSE AND POLICY.

This ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Rochester (“City” or “Rochester”) and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. 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;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
- F. To enable the City 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.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

Unless otherwise defined herein, terms shall have the meanings adopted in the latest edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, American Waterworks Association, and the Water Pollution Control Federation, as set forth in 40 CFR Part 136. Waste constituents and characteristics shall be measured by standard methods unless a mutually agreed upon acceptable alternative method is adopted by agreement of the permittee and the permitting authority or any other method is established by Federal or State regulatory agencies. Monitoring and metering shall be carried out by customarily accepted methods.

B. ADMINISTRATION.

Except as otherwise provided herein, the Wastewater Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Wastewater Superintendent may be delegated by the Wastewater Superintendent to a duly authorized City employee.

C. ABBREVIATIONS.

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

BOD₅ – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – *Code of Federal Regulations*
CIU – Categorical Industrial User
CBOD₅ - Carbonaceous Biochemical Oxygen Demand
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
EPA RV – Environmental Protection Agency Region 5
FOG – Fats, Oils, and Grease
gpd – gallons per day
IC - Indiana Code
IAC - Indiana Administrative Code
IDEM – Indiana Department of Environmental Management
IOSHA – Indian Occupational Safety & Health Administration
IWP – Industrial Wastewater Pretreatment Permit
IU – Industrial User
mg/l – milligrams per liter
MSDS – Material Safety Data Sheet
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

SECTION II – SEWER USE.

51.15 APPLICABILITY AND ENFORCEMENT OF PROVISIONS.

This subchapter shall be applicable to and enforceable within the incorporated boundary of the city, and shall also be applicable to and enforceable in any other areas in which the city exercises boundaries with respect to collection, processing, and discharge of sanitary sewage pursuant to I.C. 36-92-16 to 36-9-2-18.

51.16 DEFINITIONS.

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

AMMONIA (NH₃). The same as ammonia nitrogen measured as ammonia. The laboratory determination shall be made in accordance with procedures set forth in "Standard Methods."

BEST MANAGEMENT PRACTICES or BMPs. Means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to ~~implement the prohibitions listed in comply with Section 51.19 this ordinance A and B~~ [\[327 IAC 5-18-2\(bc\) & \(d\) 40 CFR 403.5\(a\)\(1\) and \(b\)\]](#). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BOARD. The Board of Public Works and Safety of the City of Rochester, Indiana, or any other duly authorized officials acting on its behalf.

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 feet outside the foundation wall of the building.

- (1) BUILDING DRAIN: SANITARY. A building drain which conveys sanitary or industrial sewage only.
- (2) BUILDING DRAIN: STORM. A building drain which conveys storm water or other clean water drainage, but no wastewater.

BUILDING (OR HOUSE) LATERAL SEWER. The extension from the building drain to the sewage system or other place of disposal.

- (1) BUILDING SEWER: SANITARY. A building sewer which conveys sanitary or industrial sewage only.
- (2) BUILDING SEWER: STORM. A building sewer which conveys storm water or other clean water drainage, but no sanitary or industrial sewage.

BYPASS. The intentional diversion of waste streams from any portion of an Industrial User's treatment facility.

CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND (OR CBOD). Five-day measure of pollutant parameters Carbonaceous Biochemical Oxygen Demand.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

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

COMPATIBLE POLLUTANT. Biochemical oxygen demand, suspended solids, PH, E-coli bacteria, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the treatment works was designed to treat such pollutants and in fact does remove such pollutants to a substantial degree. The term substantial degree is not subject to precise definition, but generally contemplates removals in the order of 80% or greater. Minor incidental removals in the order of 10 to 30% are not considered substantial. Examples of the additional pollutants which may be considered compatible include:

- (1) Chemical oxygen demand;
- (2) Total organic carbon;
- (3) Phosphorus and phosphorus compounds;
- (4) Nitrogen and nitrogen compounds; and
- (5) Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).

COMPOSITE SAMPLE. A 24-hour composite sample consists of at least four (4) individual flow-proportioned samples of wastewater, taken by the grab sample method over equal time intervals during the period of operator attendance or by an automatic sampler, and which are combined prior to analysis. A flow proportioned composite sample shall be obtained by:

- (a) recording the discharge flow rate at the time each individual sample is taken,
- (b) adding together the discharge flow rates recorded from each individual sampling time to formulate the "total flow value,"
- (c) dividing the discharge flow rate of each individual sampling time by the total flow value to determine its percentage of the total flow value, and
- (d) multiplying the volume of the total composite sample by each individual sample's percentage to determine the volume of that individual sample which will be included in the total composite sample.

Alternatively, a 24-hour composite sample may be obtained by an automatic sampler on an equal time interval basis over a twenty-four hour period provided that a minimum of 24 samples are taken and combined prior to analysis. The samples do not need to be flow-proportioned if the permittee collects samples in this manner.

CONTROL AUTHORITY. The Commissioner of the Indiana Department of Environmental Management (IDEM).

DAILY MAXIMUM. The highest total discharge for any calendar day during a calendar month.

EASEMENT. An acquired legal right for the specific use of land owned by others.

E. COLI. Escherichia coli bacteria.

EFFLUENT LIMITATIONS. The arithmetic mean of CBOD, ammonia-nitrogen and TSS values and the geometric mean of E-coli values and fecal coliform values for effluent samples collected in a calendar month or week which shall not exceed the monthly averages contained in the discharge limitation section of NPDES permit for the Wastewater Treatment Plant for the City of Rochester, Indiana.

FECAL COLIFORM. Any number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.

FLOATABLE OIL. Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment facility approved by the city.

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

INCOMPATIBLE POLLUTANT. Any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids, and further defined in Regulation 40 - CFR Part 403.

IDEM. Indiana Department of Environmental Management

INDIRECT DISCHARGER. Means a nondomestic discharger introducing pollutants into a POTW, regardless of whether the discharger is within the governmental jurisdiction of the permittee.

INDUSTRIAL USER. Means an Indirect Discharger.

INDUSTRIAL WASTES. Any solid, liquid or gaseous substance or form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business process, or from the development, recovery or processing of any natural resource carried on by a period and shall further mean any waste from an industrial sewer.

INFILTRATION. The water entering a sewer system, including building drains and sewers, 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.)

INFILTRATION/INFLOW. The total quantity of water from both infiltration and inflow without distinguishing the source.

INFLOW. The water discharged into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof leader, cellar, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, catch basins, storm waters,

surface runoff, street wash waters or drainage. (Inflow does not include, and is distinguishable from, infiltration.)

INSPECTOR. The person or persons duly authorized by the Board of Public Works and Safety to inspect and approve the installation of building sewers and their connection to the public sewer system.

INTERFERENCE. A discharge that, alone or in conjunction with a discharge or discharges from other sources does one (1) of the following:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, its sludge processes, or its selected sludge use or disposal methods.
- (2) Causes a violation any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.
- (3) Prevents the use of the POTW's sewage sludge or its sludge disposal method selected in compliance with the following statutory provisions, regulations, or permits issued thereunder more stringent state or local regulations:
 - a. Section 405 of the Clean Water Act (33 U.S.C. 1345).
 - b. The Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901), including:
 - (1) Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA); and
 - (2) The rules contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA (42U.S.C. 6941).
 - c. The Clean Air Act (42 U.S.C. 7401).
 - d. The Toxic Substances Control Act (15 U.S.C. 2601).

MONTHLY AVERAGE. The total discharge during a calendar month. The MONTHLY AVERAGE shall be determined by the summation of the measured daily discharge divided by the number of days during the calendar month when measurements were taken.

NPDES PERMIT. National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 95217.

NATURAL OUTLET. Any outlet including store sewers, into a watercourse, pond, ditch, lake or other body of surface or ground water.

NORMAL DOMESTIC SEWAGE. (For the purpose of determining surcharges) shall mean wastewater or sewage having an average concentration as follows:

- (1) CBOD not more than 250 mg/l.
- (2) Suspended Solids not more than 250 mg/l.
- (3) Ammonia not more than 20 mg/l.
- (4) COD not more than 500 mg/l.
- (5) Phosphorus not more than 10mg/l.
- (6) As defined by origin, wastewater from segregated domestic and/or sanitary conveniences as distinct from water from industrial purposes.

PASS THROUGH. A discharge proceeding through a POTW into waters of the state in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, are a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON. Any and all persons, natural or artificial, including any individual, firm, company, municipal or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, the State of Indiana, the United States of America, or other legal entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine and the singular shall include the plural where indicated by the content.

pH. The reciprocal of the logarithm of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams per liter of solution.

PRETREATMENT. The reduction of the amount of pollutants, the elimination of pollutants, or the alternations of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alternation can be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR Section 403.6(d); and shall include all applicable rule and regulations contained in the Code of Federal Regulations as published in the Federal Register, under Section 307 of Public Law 95-217, under regulations 40 CFR Part 403 pursuant to the Act, and Amendments.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user, including applicable local limits.

PRETREATMENT STANDARDS. State pretreatment standards as established in 327 IAC 5-18-8; pretreatment standards for prohibited discharges, as established in 327 IAC 5-18-2; and national categorical pretreatment standards incorporated by reference in 327 IAC 5-18-10.

PRIVATE SEWER. A sewer which is not owned by a public authority.

PROPERLY SHREDDED GARBAGE. The wastes from the preparation, cooking and dispensing of food that has 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 1/2-inch in any dimension.

PUBLICLY OWNED TREATMENT WORKS (OR POTW). A treatment works owned by the State or municipality, except that it does not include pipes, sewers or other conveyances not connected to a facility providing treatment. The term includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or compatible industrial wastes. The term also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. "POTW" also means the municipality that has jurisdiction over the indirect discharges to and the discharges from such treatment works.

PUBLIC SEWER. A sewer which is owned and controlled by the public authority and will consist of the following increments:

- (1) COLLECTOR SEWER. A sewer whose primary purpose is to collect wastewaters from individual point source discharges.
- (2) INTERCEPTOR SEWER. A sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.
- (3) FORCE MAIN. A pipe in which wastewater is carried under pressure.
- (4) PUMPING STATION. A station positioned in the public sewer system at which wastewater is pumped to a higher level.

SANITARY SEWER. A sewer which carries sanitary and industrial wastes, and to which storm, surface and ground water are not intentionally admitted.

SEWAGE. The combination of the liquid and water-carried wastes from residences, commercial building, industrial plants and institution (including polluted cooling water). The two most common types of sewage are:

- (1) SANITARY SEWAGE. The combination of liquid and water-carried wastes, discharged from toilet and other sanitary facilities.
- (2) INDUSTRIAL SEWAGE. A combination of liquid and water-carried wastes, discharged from any industrial establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

SEWAGE WORKS. The structures, equipment and process to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

SEWER. A pipe or conduit for carrying sewage.

SHALL. Is mandatory; **MAY** is permissive.

SIGNIFICANT INDUSTRIAL USER.

- (1) An Industrial User subject to categorical Pretreatment Standards under 327 IAC 5-18-10.
- (2) An Industrial User that:
 - a. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blow down wastewater) to the POTW;
 - b. Contributes a process wastestream 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 a significant industrial user by the control authority on the basis that the industrial user has the reasonable potential to:
 - (1) Adversely affect the POTW's operation
 - (2) Violate a pretreatment standard; or
 - (3) Violate a requirement of 327 IAC 5-19-3.

- (3) The control authority may, on its own initiative or in response to a petition received from an industrial user or a POTW and in accordance with 327 IAC 5-19-3(6), determine that an industrial user is not a significant industrial user if it does not meet Part III.A.9.b.(3) of NPDES Permit No. IN0021661.

SLUG. Any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which as a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

STANDARD METHODS. The laboratory procedures set forth in the latest approved edition at the time of analysis, of "Standard Methods for the Examination of Water and Wastewater" prepared and published jointly by the American Public Health Association, the American Water Works Association and The Water Pollution Control Federation.

STORM SEWER. A sewer for conveying water, ground water or unpolluted water from any source and to which sanitary and/or industrial wastes are not intentionally admitted.

SUPERINTENDENT. The Superintendent of the wastewater treatment plant of the city, or his or her authorized deputy, agent or representative.

SUSPENDED SOLIDS. Solids which either floats on the surface of or are in suspension in water, sewage or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in "Standard Methods".

TOTAL SOLIDS. The sum of suspended and dissolved solids.

TSS. Total Suspended Solids.

UNPOLLUTED WATER. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefitted by discharge to the sanitary sewers and wastewater treatment facilities provided.

USER. Any person that discharges, causes, or permits the discharge of wastewater into the sewerage system.

VOLATILE ORGANIC MATTER. The material in the sewage solids transformed to gasses or vapors when heated to 550°C for 15 to 20 minutes.

WATERCOURSE. A natural or artificial channel for the passage of water either continuously or intermittently.

WEEKLY AVERAGE DISCHARGE. The highest average of a calendar week during a calendar month. The weekly average shall be determined by the summation of the measured daily discharge divided by the number of days during the calendar week when measurements were taken.

51.17 PROHIBITED ACTS.

- (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 excrement, garbage or other objectionable waste.
- (B) No new connection shall be made unless there is capacity available to all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for CBOD, COD, suspended solids, ammonia, and phosphorus.
- (C) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the city, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this subchapter and the NPDES permit.
- (D) No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this subchapter and the NPDES permit.
- (E) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- (F) The owner of all houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, and which have or maintain toilet facilities on said property shall connect such facilities directly with the proper public sewer in accordance with the provisions of this subchapter, within 90 days after date of official notice to do so, provided that said public sewer is within 300 feet of the property line. (See I.C. 36-9-23-30)
- (G) The owner of any house, building, or other property which contains basement drains connected to any sewers maintained by the city, whether storm sewers, combined sewers, or any other sewer connection, shall have installed on said basement drains appropriate plugs which may be firmly fastened by screw threads or other appropriate means to prevent the backup from any such sewer into said basement; in the alternative such drains shall be equipped with check valves which are sufficient to prevent the backup of any waters from said sewer into said basement.

51.18 PERMIT REQUIRED; CLASSES OF PERMITS.

- (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 Clerk Treasurer.
- (B) There shall be two classes of building sewer permits:
 - (1) residential users, and;
 - (2) commercial/non-residential users.

In either case, the owner or his or her agent shall make application on a special form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Inspector. Connections fees will be as defined by a separate ordinance.

- (C) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall be responsible for the building sewer from the point of tap to the city line. 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.
- (D) A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard or driveway, the building sewer from the front building may be extended to the rear building and the whole considered as one building sewer.
- (E) Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Inspector, to meet all requirements of this subchapter.
- (F) The size, slope, alignment, materials of construction of a new building sewer and the methods to be used in excavating, placing of the pipe, jointly testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- (G) 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 sewer carried by such building drain shall be lifted by an approved means and discharged to the building sewer.
- (H) No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface run-off ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (I) The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the city, or the procedures set forth in appropriate specifications of the A.S.T.M. and

the W.P.C.F. Manual of Practice No.9. All such connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

- (J) The applicant for the building sewer permit shall notify the 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 Inspector or his representative.
- (K) All excavations for building installation must 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 city.

51.19 INDUSTRIAL USER PROHIBITED DISCHARGES.

- (A) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference with the operation or performance of the POTW. These general prohibitions apply to all users of the Rochester 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) A pollutant from any source of nondomestic wastewaters that could pass through or cause interference with the operation or performance of the POTW.
 - (2) Pollutants which create a fire or explosive hazard in the Rochester POTW, including but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - (3) Wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the Rochester POTW or equipment;
 - (4) Solid or viscous substances in amounts which will cause obstruction of the flow in a sewer or other interference with the operation of the POTW such as , but not limited to, ashes , cinders, sand, mud, straw, metal, glass, rags, feathers, tar, paints, plastics, wood, unground garbage, whole blood, paunch, manure, hair, fleashing, entrails, paper, dishes, cups, milk containers, and the like either whole or ground by garbage grinders.
 - (5) 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 in the Rochester POTW;
 - (6) Wastewater having a temperature greater than 140 degrees F (60 degrees C), or which will inhibit biological activity in the treatment plant resulting in

interference or damage to the POTW, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);

- (7) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (8) Pollutants which result in the presence of toxic gases, vapors, or fumes within the Rochester POTW in a quantity that may cause acute worker health and safety problems;
- (9) Trucked or hauled pollutants, except with the permission of the POTW, and when introduced to the POTW at a discharge point designated by the POTW;
- (10) 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;
- (11) 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;
- (12) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Rochester Board of Public Works & Safety upon recommendation of the Superintendent in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the Rochester POTW;
- (17) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of 100 mg/L or containing substances which may solidify or become viscous at temperatures between 32 and 150° Fahrenheit or 0 and 65° Celsius.
- (18) Any garbage that has not been properly ground or shredded. The installation and operation of any garbage grinder equipped with a motor of three-quarters horsepower (0.76 HP metric) or greater shall be subject to the review and approval by the Board;

- (19) 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.
 - (20) Any waters or wastes containing acid metallic pickling wastes or concentrated plating solutions; and
 - (21) Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides, and any other substances which the City, the State, or EPA has notified the user is a fire hazard or a hazard to the system.
- (C) If any waters or wastes are discharged, or area proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in Section 51.19(B), and which in the judgment of the Board may have a deleterious effect upon the sewage works, processes, equipment or receiving waters, or otherwise create a hazard to life or constitute a public nuisance, the Board may:
- (1) Develop and enforce specific limits on prohibited substances.
 - (2) Require new industries, or industries with significant increase in discharges, to submit information on wastewater characteristics and obtain prior approval for discharges.
 - (3) Enter the premises of any industrial user to conduct inspections, surveillance, record review, and/or monitoring, as necessary to determine compliance with the SUO and, if applicable, any effective industrial wastewater pretreatment permit.
 - (4) Accept or deny any new or increased discharges from any indirect discharger.
 - (5) Require compliance with all applicable pretreatment standards and requirements by indirect dischargers.
 - (6) Immediately halt or prevent any discharge of pollutants to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of the public, the environment, and/or which threatens to interfere with the operation of the POTW.
 - (7) Require payment of a surcharge on any excessive flows or loadings discharged to the treatment works to cover the additional costs of having capacity for and treating such wastes.
 - (8) If the Board permits the pretreatment or equalization of waste flows, the design and installation of the plant 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.

- (D) 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 or her expense.
- (E) When required by the Superintendent, 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 Superintendent. The manhole shall be installed by the owner at his or her expense, and shall be maintained by him so as to be safe and accessible at all times. Agents of the city, the Indiana Department of Environmental Management and the U.S. Environmental Protection Agency shall be permitted to enter all properties for the purpose of inspection, record review, observation, measurement, sampling and testing.
- (F) All measurements, tests and analysis of the characteristics of water and wastes to which reference is made in this subchapter 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, except for application for NPDES Permits and report there of which shall be conducted in accordance with rules and regulations adopted by the USEPA, 40 CFR Part 136 and any subsequent revisions subject to approval by the city. 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. (The particular analysis involved will determine whether a 24-hour composite of all outfalls of a premises is appropriate or whether a grab sample or samples should be taken. Normally, but not always, CBOD, suspended solids and ammonia analysis are obtained from 24-hour composites of all outfalls whereas PH's are determined from periodic grab samples.)
- (G) No statement contained in this article shall be construed as preventing any special agreement or arrangement between the city and any industrial concern whereby a compatible industrial waste of unusual strength or character may be accepted by the city for treatment, subject to payment therefore, by the industrial concern, at such rates as are compatible with the rate ordinance.

51.20 ABNORMAL WASTE SURCHARGE

In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the Board shall base its charges not only on the volume, but also on strength and character of the stronger than normal domestic sewage and wastes which it is required to treat and dispose of. The Board shall require the user to determine the strength and content of all sewage discharged either directly or indirectly to the POTW, in that manner, by that method, and at those times as the Board may deem practicable in

light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the Board at all times.

Additional charges for treating stronger than normal domestic waste are based on the following thresholds and rates:

- (A) Total Suspended Solids (TSS) – shall be surcharged in excess of 250 mg/l at a rate of \$0.24/lb.
- (B) CBOD – shall be surcharged in excess of 250 mg/l of at a rate of \$0.24/lb.
- (C) Ammonia – shall be surcharged in excess of 20 mg/l at a rate of \$0.69/lb.
- (D) COD – shall be surcharged in excess of 500 mg/l at a rate of \$0.24/lb.
- (E) Phosphorus – shall be surcharged in excess of 10mg/l at a rate of \$1.80/lb.

The determination of suspended solids, five-day biochemical oxygen demand, ammonia, and phosphorus contained in the waste shall be in accordance with the latest copy of Standard Methods for the Elimination of Water, Sewage, and Industrial Wastes, as written by the American Public Health Association, the American Water Works Association, and the Water Environment Federation, and in conformance with Guidelines Establishing Test Procedures for Analysis of Pollutants: 40 CFR 136.

51.21 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

Industrial Users per 40 CFR § 403.8 (f)(1)(ii) must comply with the Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

- (A) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Wastewater Superintendent shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- (B) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Wastewater Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 404.6(c).
- (C) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Wastewater Superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- ~~(D) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Wastewater Superintendent shall impose an alternate limit in accordance with 40 CFR 403.6(e).~~

51.22 LOCAL LIMITS.

- (A) The Board is authorized to establish and enforce Local Limits pursuant to [327 IAC 5-18-2\(b\) & \(d\)](#)~~40 CFR 403.5(e) & (d)~~.
- (B) The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Daily Maximum Limitations.
- (C) Under the direction of the Wastewater Superintendent, BMPs may be required and may include: treatment requirements; operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal; or drainage from raw materials storage. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

Pollutant	Daily Maximum Limitation (mg/l)
Cadmium	0.16
Chromium	2.0
Hexavalent Chromium	0.86
Copper	1.44
Cyanide	0.24
Lead	0.53
Mercury	0.0003
Molybdenum	0.5
Nickel	3.95
Oil & Grease - Animal/Vegetable	200
Oil & Grease - Mineral/Petroleum	100
Silver	1.34
Zinc	0.63
Total Toxic Organics (TTO)	1.0

51.23 PRETREATMENT OF INDUSTRIAL WASTES AND PERMITS REQUIRED.

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 51.19 of this ordinance within the time limitations specified by EPA, the State, or the Board 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 Wastewater Superintendent for review, and shall be acceptable to the Wastewater Superintendent 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 ordinance. The Wastewater Superintendent may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this ordinance.

51.24 ADDITIONAL PRETREATMENT MEASURES.

- (A) Whenever deemed necessary, the Wastewater Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
- (B) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- (C) Users which operate vehicular wash facilities shall provide, operate, and maintain pretreatment facilities approved by the Superintendent to control solids and preclude the discharge toxic substances to the POTW.
- (D) Users which operate food preparation facilities shall install grease interceptors, which shall remove greases, fats, oils and food solids before entering the sanitary sewer system and to the POTW. Wastes from sinks, dishwashers and kitchen floor drains should be combined and routed through the grease interceptor prior to entering the sanitary sewer system. The tank size shall be based on design criteria set forth in Bulletin S.E. 13 from the Indiana State Board of Health, latest edition. All interception units shall be of type and capacity approved by the Superintendent 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.
- (E) The Wastewater Superintendent may also require the installation of grease, oil and sand interceptors when, in the opinion of the Superintendent, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients.

51.25 PLANS FOR PRETREATMENT FACILITY TO BE SUBMITTED TO CITY; PERIODIC INSPECTIONS.

Plans, specifications and any other pertinent information relating to pretreatment of control facilities shall be submitted for approval of the city and no construction of such facilities shall be commenced until approval in writing is granted. Where such facilities are provided, they shall be maintained continuously in satisfactory and effective operating order by the owner at his or her expense and shall be subject to periodic inspection by the city to determine that such facilities are being operated in conformance with the applicable federal, state and local laws and permits. The owner shall maintain operating records of the influent and effluent to show the performance of the treatment facilities and for comparison against city monitoring records.

51.26 PRETREATMENT AND DISCHARGE OF INDUSTRIAL COOLING WATER.

Industrial cooling water, which may be polluted with insoluble oils or grease or suspended solids, shall be pretreated for removal of pollutants and the resultant clear water shall be discharged to a sanitary sewer pending written approval by the city.

51.27 NONRESIDENTIAL USERS TO PROVIDE WASTEWATER FLOW CHARACTERISTICS INFORMATION.

The city shall require users of the sewage works, other than residential users, to supply pertinent information on wastewater flow characteristics. Such measurements, test and analyses shall be made at the users' expense. If made by the city, an appropriate charge may be assessed to the user at the option of the city. All charges for test and analysis made by the city shall be adopted by the Board.

51.28 STRENGTH OF SEWAGE; TESTING.

The strength of sewage shall be determined, for periodic establishment of charges provided for in Section 51.45 *et seq.*, from samplings taken at the afore mentioned structure at any period of time and of such duration and in such manner as the city may elect, or at any place mutually agreed upon between the user and the city. Appropriate charges for sampling and analysis shall be assessed to the user as are adopted by the Board. The results of routine sampling and analysis by the user may also be used for determination of charges after verification by the city.

51.29 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

At least once every two years, the Wastewater Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Wastewater Superintendent may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Wastewater Superintendent may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- (A) Description of discharge practices, including nonroutine batch discharges;
- (B) Description of stored chemicals;
- (C) Procedures for immediately notifying the Wastewater Superintendent of any accidental or Slug Discharge, as required by Section 51.32 of this ordinance; 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.

51.30 COMPLIANCE WITH STATE AND FEDERAL STANDARDS.

All provisions of this subchapter and limits set herein shall comply with any applicable state and/or federal requirements now, or projected to be in effect.

51.31 TAMPERING WITH MUNICIPAL SEWAGE WORKS PROHIBITED.

No unauthorized person shall maliciously, willfully or negligently break, damage, 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.

51.32 REPORTS OF POTENTIAL PROBLEMS.

- (A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Wastewater Superintendent 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 Wastewater Superintendent, 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 might 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 ordinance.
- (C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (A), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (D) Significant Industrial Users are required to notify the Wastewater Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.
- (E) The Wastewater Superintendent will investigate violations through the collection and analysis of samples and other information in a manner designed to produce evidence that will be admissible in an enforcement proceeding or judicial action.

51.33 RIGHT OF ENTRY FOR PURPOSE OF INSPECTION.

- (A) The Superintendent, Inspector and/or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, record review, observation, measurement, sampling and testing in accordance with the provisions of this subchapter. The Superintendent or his representative shall have 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.

- (B) While performing the necessary work on private properties referred to in §51.29, the Superintendent and/or duly authorized employee 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 the 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 Section 51.18(E).
- (C) The Superintendent and/or other duly authorized employees of the city bearing proper credentials and identification shall be permitted to enter all private properties for the purpose of, but not limited to inspection, record review, observation, measurement, sampling, repair and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, shall be done in full accordance with the terms of the City Code pertaining to the private property involved.
- (D) Ordinance limitation testing may be conducted on a quarterly or semi-annual basis or more frequently as exigent circumstances may require. The cost of such testing and analysis shall be in accordance with fees established and adopted by the Board.

51.34 NON-DELEGATED PRETREATMENT PROGRAM.

The city shall operate a non-delegated pretreatment program as defined in its NPDES permit in accordance with the following:

- (A) The Board, through its Superintendent and/or his duly authorized employee, shall carry out all inspections, surveillance and monitoring necessary to determine, independent of information supplied by the city's industrial users, compliance or noncompliance with limitations in monitoring requirements contained in Industrial Waste Pretreatment Permits (IWP) issued by the Indiana Department of Environmental Management (IDEM).
- (B) The Superintendent or any authorized representative of the Superintendent is hereby authorized to enter any premises of any industrial user in which a discharge source or pretreatment system is located or in which records are required to be kept pursuant to 40 CFR 403.12(1) for the purpose of assuring compliance with IWP permits. This authority shall include the power to immediately order the cessation of any discharge of pollutants to the sewage system which reasonably appears to present an imminent endangerment to the health or welfare of the public, the environment, or which threatens to interfere with the operation of the sewage works; and to immediately halt or prevent any discharge of pollutant to the POTW which reasonably appears to present an imminent endangerment to the health or welfare of the public, the environment, and/or which threatens to interfere with the operation of the POTW.
- (C) In order to offset the cost incurred by the city, in managing, sampling, inspecting, and analyzing industrial users subject to the non-delegated pretreatment program, the

Superintendent may charge reasonable fees which may from time to time be established and adopted by the Board.

- (D) The Board and the Superintendent is further authorized to immediately begin operation of the non-delegated pretreatment program with respect to those industries set forth in Part III of the NPDES permit and any other industry which may subsequently be required to obtain an IWP Permit from the Indiana Department of Environmental Management. In carrying out the inspections, surveillance and monitoring required by the non-delegated pretreatment program, the Board and its Superintendent shall adhere to the following:
- (1) Utilize a sample type which is identical to that sample type required by the Indiana Department of Environmental Management in the IWP permit issued to the industry subject to monitoring.
 - (2) Collect all samples at the sample location specified in the IWP permit issued by IDEM to the industry subject to monitoring.
 - (3) Submit the analytical results of all monitoring to the pretreatment group of the Indiana Department of Environmental Management on or before the twenty-eighth day of the month following the month of sampling.
 - (4) Maintain a record of each industrial inspection performed which shall be kept in a file designated for each industrial user subject to the non-delegated pretreatment program. The inspection record shall be kept on a form equivalent to the form then currently used by the Indiana Department of Environmental Management. A copy of each inspection report shall be sent to the pretreatment group of the Indiana Department of Environmental Management.
- (E) The Board and its Superintendent shall immediately sample and analyze the sewage plant influent and effluent for suspected pollutants when the sewage works operation is upset. The Superintendent or his representative shall immediately contact the pretreatment group by phone at the time of any such occurrence. The results of each analysis shall be sent to the pretreatment group.
- (F) The Board, through its Superintendent, shall notify the pretreatment group of the Indiana Department of Environmental Management of any existing industry not currently listed in the NPDES permit, Part III, that is discharging processed wastewater to the sewage works. The Board, through the Superintendent, shall not accept or allow the discharge of processed waste \water into the sewage works by any new industry until such time as said industry has obtained an IWP permit from the Indiana Department of Environmental Management.
- (G) The Board and the Superintendent shall maintain and operate the non-delegated pretreatment program in accordance with all state and federal regulations and requirements. Further, the Board and the Superintendent is authorized to develop and operate a non-delegated pretreatment program as required by the Indiana Department

of Environmental Management upon determination that the pretreatment program can be operated more effectively by the city.

51.35 ENFORCEMENT REMEDIES.

(A) Notification of Violation. Whenever the Superintendent finds that any user has violated or is violating this ordinance, a discharge permit, any prohibition, limitation or requirement, or any order issued hereunder, the Superintendent or the Superintendent's agent may serve upon the user a written notice of violation setting forth the nature of the violation(s). The notice may also include specific corrective actions and compliance schedules to which the Superintendent requires the user to adhere. Within ten (10) days of the date of receipt of this notice, the user shall submit to the Superintendent a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, consistent with the terms of the notice (to include specific corrective actions and compliance schedules). Compliance with the conditions, requirements and terms of this notice shall not be construed to relieve the user of its obligation to comply with its discharge permit which remains in full force and effect nor does such compliance excuse violations occurring before or after receipt of this notice of violation. Additional enforcement action may be pursued if corrective actions are not accomplished as scheduled and the Superintendent expressly reserves the right to seek any and all remedies available to it under this ordinance for any violations cited by the notice. Nothing in this ordinance shall limit the authority of the City of Rochester to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(B) Consent Orders. The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance including, but not limited to, compliance schedules, stipulated fines or remedial actions, and signatures of the Superintendent and user representatives. Consent orders shall have the same force and effect as any other orders issued by the Board of Public Works and Safety under this ordinance.

(C) Show Cause Order and Hearing

(1) The Superintendent may serve upon any user who causes, allows or contributes to a violation of this ordinance article, its discharge permit, or any order issued hereunder, or an unauthorized discharge to enter the POTW a written show cause order. Said order must be given at least ten (10) days prior to the hearing in accordance with ordinance. The show cause order must contain:

- a. The name and address of the user to whom the show cause order is issued;
- b. The address, or the parcel number, of the property that is the subject of the order, if different from 51.35(C)(1)a. above;
- c. The nature of the violation(s);

- d. An order to the user to appear before the Board of Public Works and Safety to show cause as to why the City should not initiate formal enforcement action against the user or discontinue service to the user;
 - e. A statement indicating the exact time and place of the hearing, and that the person to whom the show cause order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross examine opposing witnesses and present arguments;
 - f. A statement of the proposed enforcement action and the reasons therefore;
 - g. A statement indicating that a failure to comply with any of the conditions, requirements or terms of the show cause order shall constitute a violation of this Code article and may subject the user to such other enforcement response that may be appropriate;
 - h. The name, address and telephone number of the Superintendent of the City.
- (2) The Board of Public Works and Safety may itself conduct a hearing and take the evidence, or may designate any of its members or any officer or employee of the Wastewater Department to:
- a. Issue in the name of the Board of Public Works and Safety notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 - b. Take the evidence;
 - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board of Public Works and Safety for action thereon.
- (3) A hearing must be held relative to each show cause order of the City and the hearing shall be held on a business day no earlier than ten (10) days after notice of the show cause order is given. In this regard, the show cause order shall be served upon the user in accordance with Section 51.35(M) of this ordinance and the show cause order is effective on the date considered given in accordance with Section 51.35(N) of this ordinance. At any hearing held pursuant to this ordinance, testimony taken must be under oath and recorded stenographically or mechanically. The person to whom the show cause order was issued, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Whether or not a duly notified user appears as noticed, enforcement action may be pursued as appropriate. Each person appearing at the hearing is entitled to present evidence, cross examine opposing witnesses and present arguments. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.

(4) After the Board of Public Works and Safety has reviewed the evidence and if it finds any violation(s) of this ordinance, any prohibition, limitation or requirement contained herein or of the user's discharge permit, or of any order issued hereunder, it shall make findings and it may issue to the user responsible for the discharge any orders or directives as are necessary and appropriate. Issuance of a show cause order shall not be a prerequisite to taking any other action against a user.

(D) Compliance Orders. When the Superintendent finds that a user has violated or continues to violate this ordinance, discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time period. If the user does not come into compliance within the specified time period, sewer service shall be discontinued to the user unless and until adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Such service shall not recommence until such time as the user is able to demonstrate that it can and will maintain compliance. Failure to comply with this compliance order may subject the user to having its connection to the sanitary sewer sealed by the City of Rochester and assessed the costs therefore. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring and improved management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

(E) Cease and Desist Orders. When the Superintendent finds that a user is violating this ordinance, the user's discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

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

In an emergency, the order to cease and desist may be given by the Superintendent by telephone. In non-emergency situations, the cease and desist order may be used to suspend or revoke discharge permits. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

(F) Revocation Order. When the Superintendent finds that a user is violating this section, the user's discharge permit, any order issued hereunder, any other pretreatment standard or requirement, or any order or directive issued by the Board of Public Works and Safety pursuant to a show cause hearing, the Superintendent may issue an order

to the user revoking the user's discharge permit and directing the user to immediately stop or eliminate non-domestic contribution into the City of Rochester's POTW. Failure to comply with this order may subject the user to having any or all connections to the sanitary sewer sealed by the City of Rochester and assessed the costs therefore. Revocation orders may be issued by the Superintendent pursuant to Section 51.23 and shall not be a prerequisite to taking any other action against the user.

(G) Emergency Suspensions

- (1) The City of Rochester may, upon informal notice to the user, immediately suspend a user's discharge whenever such suspension is necessary, in the opinion of the Superintendent, in order to halt or prevent an actual or threatened discharge which presents or may present an immediate or substantial endangerment to human health, to the welfare of the public, or to the environment, that threatens to interfere with the operation of the POTW or is causing or will cause the City of Rochester to violate any condition of its NPDES permit.
- (2) Any user notified of a suspension of the waste water treatment service and/or the discharge permit shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Superintendent shall take such steps as deemed necessary, including, but not limited to, immediate severance of the sewer connection, to minimize damage to the POTW system or endangerment to any individuals or to the environment.
- (3) The Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City of Rochester that the period of endangerment has passed, unless the termination proceedings set forth in Section 51.35(H) are initiated against the user.
- (4) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of any show cause or termination hearing.
- (5) Compliance with the conditions, requirements and terms of the suspension order shall not be construed to relieve the user of its obligation to comply with its discharge permit which remains in full force and effect nor does such compliance excuse previous violations. Additional enforcement action may be pursued if corrective actions are not accomplished as required and the City expressly reserves the right to seek any and all remedies available to it under this ordinance for any violations cited by the suspension order. Further, a failure to comply with any of the conditions, requirements or terms of the suspension order shall constitute a further violation of this ordinance and may subject the user to such other enforcement response that may be appropriate.
- (6) The Superintendent may deny or condition new or increased discharges by a user or changes in the nature of pollutants discharged by the user if the discharge does not meet applicable pretreatment standards or will cause the City of Rochester to violate its NPDES permit.

(7) Nothing in this ordinance shall be interpreted as requiring a hearing prior to any emergency suspension.

(H) Termination of Discharge. In addition to the provisions of Section 51.23 of this ordinance, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the pretreatment standards in Section 51.21 of this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 51.35(C) of this ordinance why the proposed action should not be taken. Exercise of this option by the Rochester Board of Public Works & Safety shall not be a bar to, or a prerequisite for, taking any other action against the user.

(I) Right of Appeal; Board of Public Works and Safety

- (1) Any user or applicant for any permit filed pursuant to this ordinance affected by any decision, action, or determination, including Cease and Desist Orders, made by any Rochester representative; e.g., Inspector, Superintendent, Board, interpreting or implementing the provisions of this ordinance, or any permit issued herein, or the denial of any application for permit provided in this ordinance, may file with the Superintendent a written request for reconsideration within thirty (30) days of such a decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.
- (2) If the ruling made by the Superintendent is unsatisfactory to the person requesting reconsideration, he may within thirty (30) days from the notification of the Superintendent, file a written appeal to the Rochester Board of Public Works & Safety. The written appeal shall be heard by the Board within thirty (30) days from the date of filing. The Rochester Board of Public Works & Safety shall make a final ruling on the appeal within thirty (30) days of the close of the meeting. The Rochester Board of Public Works & Safety's decision, action, or determination shall remain in effect during such period of reconsideration.
- (3) The findings of the Board of Public Works and Safety shall be in writing and shall be available to the public upon request. However, neither the City nor the Board of Public Works and Safety is required to give any person notice of the findings and orders issued thereto other than the user or applicant to whom said orders may be directed. The findings and any orders issued by the Board of Public Works

and Safety shall be served upon the user in accordance with Section 51.35(M) of this Ordinance and the notice is effective on the date considered given in accordance with Section 51.35(N) of this Ordinance.

(4) Compliance with the conditions, requirements and terms of any of the orders issued by the Board of Public Works and Safety pursuant to Section 51.35(C)(4) of this Ordinance will not be construed to relieve the user of its obligation to comply with its wastewater contribution permit which remains in full force and effect nor does such compliance excuse previous violations. Additional enforcement action may be pursued if corrective actions are not accomplished as scheduled and the City expressly reserves the right to seek any and all remedies available to it for any violation found by the Board of Public Works and Safety. Further, a failure to comply with any of the conditions, requirements or terms of the orders shall constitute a further violation of this Ordinance and may subject the user to such other enforcement response that may be appropriate.

(5) Any action taken by the Board of Public Works and Safety under this Ordinance is subject to review by the Circuit or Superior Court of the County out of which the matter dealt with by the Board of Public Works and Safety arose, on the request of any user or applicant to whom the respective order was issued or to any interested party. Any person requesting judicial review under this Ordinance section must file a verified complaint with the Clerk of the appropriate Circuit or Superior Court within ten (10) days of the date when the Board of Public Works and Safety issued its findings of fact and accompanying order. An appeal under this ordinance section is an action de novo. The court may affirm, modify or reverse the action taken by the Board of Public Works and Safety.

(J) Injunctive Relief. Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this Ordinance, discharge permits or orders issued hereunder, or any other pretreatment requirement, or any order or directive issued by the Board of Public Works & Safety pursuant to this Ordinance, the Superintendent, or his or her designee, may petition a judge of a circuit or superior court of the county from which the action sought to be restrained or the action sought to be compelled has arisen, through the City of Rochester Attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the discharge permit, order, or other requirements imposed by this Ordinance on activities of the Industrial User. Such other action as appropriate for legal and/or equitable relief may also be sought by the City of Rochester. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

(K) Civil Penalties

(1) Any user which has violated or continues to violate this Code article, any order or discharge permit issued hereunder, or any other pretreatment standard or requirement shall be liable to the City of Rochester for a civil penalty of not more than \$2,500 per day, per violation for a first violation nor more than \$7,500 per day, per violation for subsequent violations, in accordance with IC 36-1-3-8(a)(10)(B).

(2) The City of Rochester may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including sampling and

monitoring expenses and the cost of any actual damages incurred by the City of Rochester, including fines, penalties, costs or damages imposed upon the City of Rochester by the State of Indiana, EPA or other governmental entities pursuant to this Ordinance.

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

(4) Filing a suit for civil penalties shall not be a prerequisite for taking any other action against a user.

(L) Remedies Nonexclusive. The provisions set forth in Section 51.35 of this Ordinance are not exclusive remedies. The City of Rochester reserves the right to take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City of Rochester's enforcement response plan. However, the City of Rochester reserves the right to take other action against any user when the circumstances warrant. Further, the City of Rochester is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

(M) Service.

(1) Any notice of noncompliance, notice of orders, notice of any other directives issued by the City of Rochester or by the Board of Public Works and Safety may be served upon any principle executive, general partner, corporate officer, or the individual in charge of the user's waste water treatment program as designated by the user, and shall be given by either:

(1) Sending a copy of the notice, order or statement by registered or certified mail to the place of business or employment of the person to be notified, with return receipt requested; or

(2) Delivering a copy of the notice, order or statement personally to the person to be notified; or

(3) Leaving a copy of the notice, order or statement at the place of business or employment of the person to be notified.

(2) When service is made by any of the means described, the person making service must make an affidavit stating that he has made this service, the manner in which the service was made, to whom the notice, order or statement was issued, the nature of the notice, order or statement and the date of service. The affidavit must be placed on file with the City of Rochester.

(3) If, after reasonable effort, service is not obtained by a means described above in Subsection (1) of this Section 51.35(M), service may be made by publishing a notice of the notice, order or statement in each newspaper which the City of Rochester has currently designated as a newspaper in which it shall publish legal

notices. Publication may be made on consecutive days. If service of an order is made by publication, the publication must include a statement indicating generally what action is required by the notice, order or statement and that the exact terms of the notice, order or statement may be obtained from the City of Rochester.

(N) Effective date of notice, order or statement. The date when the notice, order or statement is considered given is as follows:

- (1) If the notice, order or statement is delivered personally or left at the usual place of business or employment, notice is considered given on the day when the notice, order or statement is delivered to the person or left at the person's usual place of business or employment.
- (2) If the notice, order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the City of Rochester.
- (3) Notice by publication is considered given on the date of the second day that publication was made.

51.36 PRETREATMENT CHARGES AND FEES.

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which 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 and certification statements submitted by Users;
- (C) Fees for reviewing and responding to accidental discharge procedures and construction;
- (D) Fees for filing appeals;
- (E) Fees to recover administrative and legal costs (not included in Section 51.36(B)) associated with the enforcement activity taken by the Wastewater Superintendent to address Industrial User noncompliance; and
- (F) 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 ordinance and are separate from all other fees, fines, and penalties chargeable by the City of Rochester.

SECTION III – SEVERABILITY AND EFFECTIVE DATE

3.1 SEVERABILITY

If any provision of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

3.2 EFFECTIVE DATE.

(A) This ordinance shall become immediately effective upon its adoption by the City Council and Board of Works I, signature by the Mayor, enrollment in the book of ordinances, and publication of notice as required by law.

(B) Any ordinance in contradiction to this ordinance is hereby repealed.

The foregoing ordinance was passed and adopted by the City Council and Board of Public Works and Safety for the Civil City of Rochester, Indiana at a regular meeting held on the _____ day of _____, 2021.

Theodore J. Denton, Mayor

City Council:

Ruth Gunter

Todd Wilson

Brian Fitzwater

Marty Smith

John Garrett

Brian Goodman

Chayse Thompson

ATTEST:

Shoda D. Beehler, Clerk-Treasurer
