

**CHAPTER 53: SEWER USE**

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## SEWER USE PROVISIONS

### § 53.01 ABBREVIATIONS.

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

ASTM - American Society for Testing Materials

BOD - Biochemical Oxygen Demand

CBOD – Carbonaceous Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

EPA - Environmental Protection Agency

gpd - Gallons per day

IDEM – Indiana Department of Environmental Management

ISDH - Indiana State Department of Health

L - Liter

mg - Milligrams

mg/L - Milligrams per liter

NPDES - National Pollutant Discharge Elimination System

O&M - Operation and Maintenance

POTW - Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act (PL 94-580)

SIC - Standard Industrial Classification

SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.

SIU - Significant Industrial User

SNC – Significant Noncompliance

TSS - Total Suspended Solids

USC - United States Code

WEF - Water Environment Federation

40 CFR 403 - General Pretreatment Regulations as published in the Federal Register on June 26, 1978, and on January 28, 1981, and in subsequent amendments thereto

### § 53.02 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**AMMONIA NITROGEN (OR  $NH_3-N$ ).** All of the Nitrogen in water, sewage or other liquid waste present in the form of Ammonia, Ammonia ion or in the equilibrium  $NH + NH + H +$ .

**BUILDING DRAIN.** The part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of a building and conveys it to the building sewer beginning three feet outside the building wall.

**BUILDING DRAIN - SANITARY.** A building drain which conveys sanitary or industrial sewage only.

**BUILDING DRAIN - STORM.** A building drain which conveys storm water or other clear water drainage, but no wastewater.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal. (Also called house connection.)

**BUILDING SEWER - SANITARY.** A building sewer which conveys sanitary or industrial sewage only.

**BUILDING SEWER - STORM.** A building sewer which conveys storm water or other clear water drainage, but no sanitary or industrial sewage.

**BIOCHEMICAL OXYGEN DEMAND (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° C., usually expressed as a concentration (for example, mg/l). The laboratory determinations shall be made in accordance with procedures set forth in “Standard Methods.”

**CARBONACEOUS BIOCHEMICAL OXYGEN DEMAND (CBOD).** The CBOD of sewage, sewage effluent, polluted waters or industrial wastes, shall mean the depletion of dissolved oxygen by biological organisms in a body of water in which the contribution from nitrogenous bacteria has been suppressed. The laboratory determinations of CBOD shall be made in accordance with procedures set forth in Standard Methods.

**CATEGORICAL INDUSTRIAL USER.** An Industrial User subject to a categorical pretreatment standard or categorical Standard.

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

**CHEMICAL OXYGEN DEMAND.** (or COD) of sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of the 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.”

**COMPATIBLE POLLUTANT.** Total Suspended Solids, Biochemical Oxygen Demand, Ammonia-Nitrogen, TSS, 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. 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).

**DAILY MAXIMUM.** The daily maximum discharge limitation is the maximum allowable daily discharge for any calendar day. The “daily discharge” means the total mass of a pollutant discharged during the

calendar day or, in the case of a pollutant limited in terms other than mass pursuant to 327 IAC 5-2-11(e), the average concentration or other measurement of the pollutant specified over the calendar day or any twenty-four hour period that represents the calendar day for the purposes of sampling.

**COMPOSITE SAMPLE (24-hour).** A 24-hour composite sample consists of at least six (6) 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:

- (1) Recording the discharge flow rate at the time each individual sample is taken,
- (2) Adding together the discharge flow rates recorded from each individual sampling time to formulate the “total flow value,”
- (3) 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
- (4) 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.

**CONTROL AUTHORITY.** The Commissioner of the Indiana Department of Environmental Management.

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

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

**ESCHERICHIA COLI (E.COLI).** Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.

**EXCESSIVE STRENGTH SURCHARGE.** An additional charge which is billed to users for treating sewage wastes with an average strength in excess of normal domestic sewage.

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

**GARBAGE.** Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.

**GENERAL PROHIBITIONS.** No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which 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.

**GRAB SAMPLE.** A random sample which is taken from a wastestream without regard to the flow in the wastestream or time of day and over a period of time not to exceed fifteen (15) minutes.

**GREASE AND OIL.** A group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not

volatilized during the laboratory test procedures. Greases and oils are defined by the method of their determination in accordance with “Standard Methods.”

**HAZARDOUS WASTE.** Any waste defined as a hazardous waste under 40 CFR Part 261.

**INCOMPATIBLE POLLUTANT.** Any pollutant that is not defined as a compatible pollutant, including non-biodegradable dissolved solids.

**INDIRECT DISCHARGER.** A nondomestic discharger introducing pollutants into a POTW, regardless of whether the discharger is within the governmental jurisdiction of the Town.

**INDUSTRIAL USER.** An indirect discharger that may include any industrial or commercial establishment, manufacturing, or processing facility that discharges a non-domestic waste to a POTW.

**INDUSTRIAL WASTE PERMIT.** A permit to deposit or discharge non-domestic waste into any sanitary sewer as issued by the POTW.

**INDUSTRIAL WASTES.** 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 resource carried on by any person and shall further mean any waste from a non-domestic user.

**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 leaders, cellars, yard and area drains, foundation drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross-connections from storm sewers and combined sewers, catch basins, storm waters, surfaces run-off, street wash waters or drainage. (**INFLOW** does not include, and is distinguished from **INFILTRATION**.)

**INSPECTOR.** The person or persons duly authorized by the town, through its Town Council, to inspect and approve the installation of building sewers and their connection to the public sewer system and activities related to the evaluation and assurance of compliance relative to any such connection.

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

- (1) Inhibits or disrupts the treatment processes or operations, sludge processes, or selected sludge use or disposal methods of a POTW;
- (2) The inhibition or disruption under division (1) of this definition must:
  - a. Cause a violation of a requirement of the POTW’s NPDES permit, including an increase in the magnitude or duration of a violation; or
  - b. Prevent 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 or more stringent state or local regulations:
    - i. Section 405 of the Clean Water Act (33 USC 1345);

- ii. The Solid Waste Disposal Act (SWDA) (42 USC 6901), including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA) and the rules contained in a state sludge management plan prepared pursuant to Subtitle D of the SWDA (42 USC 6941);
- iii. The Clean Air Act (42 USC 7401); The Toxic Substances Control Act (15 USC 2601).

**LOCAL LIMIT.** Specific discharge limits developed and enforced by the Town upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

**MONTHLY AVERAGE.** The monthly average discharge means the total mass or flow-weighted concentration of all daily discharged during a calendar month on which daily discharges are sampled or measured, divided by the number of daily discharges, sampled and/or measured during such calendar month. The monthly average discharge limitation is the highest allowable average monthly discharge for any calendar month.

**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.

**NATURAL OUTLET.** Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake or other body of surface or groundwater.

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

**NON-SIGNIFICANT INDUSTRIAL USER (formerly “Minor Contributor”).** A non-major contributor that: (a) has potential for discharging pollutants that could violate specific local limits; (b) has potential for accidental spill or slug discharges of pollutants to the sewage system.

**NORMAL DOMESTIC SEWAGE.** For the purpose of determining surcharges. wastewater or sewage having an average daily concentration as follows:

- (1) CBOD not more than 250 mg/l;
- (2) COD not more than 500 mg/l;
- (3) Total Suspended Solids not more than 250 mg/l;
- (4) Ammonia-Nitrogen not more than 25 mg/l; and
- (5) Phosphorus not more than 10 mg/l.

**NPDES PERMIT.** A permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to the navigable waters of the United States pursuant to § 402 of P.L. 92-500.

**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.

**pH.** The logarithm (to the base 10) of the reciprocal of the hydrogen ion concentration of a solution expressed in gram-atoms per liter of solution. A measure of the acidity or alkalinity of a solution, expressed in standard units.

**PERSON.** Any individual, firm, company, association, society, corporation or group discharging any wastewater to the treatment works.

**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 and industrial wastes, and certain characteristics of wastewater, such as, pH, temperature, TSS, turbidity, color, CBOD, COD, toxicity, or odor.

**PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW. The reduction or alteration 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 rules and regulations contained in the Code of Federal Regulations as published in the Federal Register, under Section 307 of Public Law 95-217, under regulation 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; national categorical pretreatment standards incorporated by reference in 327 IAC 5-18-10; and local limits as identified herein.

**PRIVATE SEWER.** Any sewer that is not located on a public street, alley or easement dedicated to the Town.

**PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 53.05 of this Ordinance.

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

**PUBLIC SEWER.** Any sewer that is located in a public street, public alley or easement dedicated to the Town.

**COLLECTOR SEWER.** A sewer whose primary purpose is to collect wastewaters from individual point source discharges.

**FORCE MAIN.** A pipe in which wastewater is carried under pressure.

**INTERCEPTOR SEWER.** A sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.

***PUBLICLY OWNED TREATMENT WORKS or POTW.*** A treatment works owned by the state or a 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.

***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 waters are not intentionally admitted.

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

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

***INDUSTRIAL SEWAGE.*** A combination of liquid and water-carried wastes, discharged from any industrial establishment and resulting from any trade or process carried on in that establishment (this shall include the wastes from pretreatment facilities and polluted cooling water).

***SANITARY SEWAGE.*** The combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.

***SEWER.*** A pipe or conduit for carrying sewage.

***SHALL.*** The act referred to is mandatory.

***SIGNIFICANT INDUSTRIAL USER.*** Industrial users subject to categorical pretreatment standards under 327 IAC 5-18-110. An industrial user that:

- (1) Discharges an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater) to the POTW;
- (2) Contributes a process wastestream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (3) Is designated as a significant industrial user by the control authority on the basis that the industrial user has a reasonable potential to:
  - a. Adversely affect the POTW's operation;
  - b. Violate a pretreatment standard; or
  - c. Violate a requirement of 327 IAC 5-19-3.
- (4) 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 (3) above.

***SIGNIFICANT NONCOMPLIANCE.*** The term "significant noncompliance" shall include any of the following violations:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement as defined by § 53.06;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six month period equals or exceeds the product of the numeric pretreatment standard or requirement including daily maximum limits, as defined by § 53.06 multiplied by the applicable criteria (1.4 for CBOD, TSS, fats, oils, and grease, 1.2 for all other pollutants except pH);
- (3) Any other discharge violation of a pretreatment standard or requirement as defined by § 53.06 (daily maximum, long-term average, or narrative standard) that the Wastewater Superintendent believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Town Council's exercise of its emergency authority to halt or prevent such a discharge;
- (5) 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;
- (6) Failure to provide within forty-five (45) 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;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s), which may include Best Management Practices (BMPs), that the Town Council upon recommendation of the Wastewater Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

**SLUDGE.** Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under Section 402, 405 of the Federal Act and in the applicable requirements under Sections 3001, 3004, and 4004 of the Solid Waste Disposal Act, PL 94-580.

**SLUG LOAD or SLUG.** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in §53.05 of this ordinance. A Slug Discharge is 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.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE.** A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

**STANDARD METHODS.** Shall mean the laboratory procedures set forth and in accordance with 40 CFR Part 136 and amendments thereto or with any other test procedures approved by EPA.

**STORM SEWER.** - A sewer which is designed to carry only storm water but excludes other liquid and water-carried wastes.

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

**WASTEWATER SUPERINTENDENT.** The Wastewater Superintendent of the POTW of the town or his or her authorized deputy, agent or representative.

**TOTAL SUSPENDED SOLIDS.** Solids which either float 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."

**TOXIC AMOUNT.** Concentrations of any pollutant or combination of pollutants, which upon exposure to or assimilation into any organism will cause adverse effects, such as cancer, genetic mutations and physiological manifestations, as defined in standards issued pursuant to § 307(a) of P.L. 92-500.

**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.

**UPSET.** An exceptional incident in which a Discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this Ordinance due to factors beyond the reasonable control of the Discharger, and excluding noncompliance to the extent caused by operational error, improperly designed pretreatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

**VOLATILE ORGANIC MATTER.** The material in the sewage solids transformed to gases or vapors when heated at 55°C for 15 to 20 minutes. Quantitative determination shall be made in accordance with procedures set forth in "Standard Methods."

**WASTE.** Includes sanitary sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, processing, manufacturing, or industrial operation of whatever nature, including such waste placed within containers or whatever nature prior to, and for purposes of, disposal.

**WASTEWATER.** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the Albany POTW.

**WASTEWATER TREATMENT PLANT OR TREATMENT PLANT.** That portion of the Albany POTW which is designed to provide treatment of municipal sewage and industrial waste.

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

**WATERS OF THE STATE.** Any water, surface or underground, within the boundaries of Indiana, except confined waters in sewers, tanks, etc.

**§ 53.03**

**GENERAL WASTE AND WATER DISCHARGE REGULATIONS.**

- (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 with the town or in any area under the jurisdiction of the town any human or animal excrement, garbage or other objectionable waste.
- (B) No person shall discharge or cause to be discharged to any sanitary sewer, either directly or indirectly, storm waters, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water. The town shall require the removal of unpolluted waters from any wastewater collection or treatment facility if such removal is cost effective and is in the best interest of all users of those facilities.
- (C) Storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodation. No person shall use such sewers, however, without the specific permission of the town.
- (D) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the town, any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this chapter and the NPDES permit.
- (E) 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 chapter and the NPDES permit.
- (F) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, combined sewer, septic tank or other facility intended or used for the disposal of sewage.
- (G) The owners of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes, situated within the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the town is hereby required at his or her expense to install suitable toilet facilities therein, and to connect with facilities directly with the proper public sewer in accordance with the provisions of this chapter, within ninety (90) days after date of official notice to do so, provided that the public sewer is within one-hundred (100) feet of the property line.

**§ 53.04**

**CONNECTION TO PUBLIC SEWER.**

- (A) No unauthorized person shall uncover, make any connections with or opening into, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk-Treasurer and signed by the Wastewater Superintendent.

- (B) There shall be two classes of building sewer permits:
1. For residential and commercial service; and
  2. For service to establishments producing industrial wastes. In either case, the owner or his or her agent shall make application on a special form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of \$25 for a residential or commercial building sewer permit and \$50 for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time the application is filed.
- (C) All costs and expenses incident to the installation and connection of the building sewer shall be borne by the owner. The owner shall indemnify the town 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 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.
- (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 chapter.
- (F) The building sewer shall be no less than six inches in diameter, sloped not less than one-eighth inch per foot and the material shall be SDR 35 PVC or other suitable material approved by the Wastewater Superintendent. The pipe shall be bedded six inches below and to the top of the pipe with crushed stone. Where a wye is not available, a wye or saddle shall be installed for a connection.
- (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 sewage 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 inflow sources such as roof downspouts, exterior foundation drains, areaway drains or other source of surface run-off or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
- (I) Unpolluted water from air conditioners, cooling, condensing systems or swimming pools shall be discharged to a storm sewer, where it is available. Where a storm sewer is not available, discharge may be to a natural outlet

approved by the town and by the State of Indiana. Where a storm sewer is not available, such unpolluted water may be discharged to a sanitary sewer pending written approval by the town.

- (J) The inflow/clear water connection for any new building shall be made separate and distinct from the sanitary waste connection to facilitate disconnection of the former if a separate storm sewer subsequently becomes available.
- (K) 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 town or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.P. 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 Wastewater Superintendent before installations.
- (L) The size, slope, alignment, materials of construction of a 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 of the town. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manuals of Practice No. 9 shall apply.
- (M) 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 or her representative.
- (N) 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 town.
- (O) No user shall make a new connection unless there is capacity available to all downstream sewers, lift stations, force mains and the sewage treatment plant, including capacity for compatible pollutants.
- (P) Except as otherwise 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.
- (Q) The owner of all homes, buildings, or properties used for human occupancy, employment, recreation or other purposes, situated with the town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the town is hereby required at his or her 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 chapter, within

ninety (90) days after date of official notice to do so, provided that said public sewer is within three hundred (300) feet of the property line.

- (R) 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.
- (S) 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 POTW. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

**§ 53.05 DISCHARGE OF CERTAIN WATERS OR WASTES PROHIBITED.**

- (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.
- (B) Specific prohibitions.
  - 1. A user of the POTW, whether or not the user is subject to national categorical standards or state, local, or any other national pretreatment standard or requirement, shall not allow the introduction of the following into the POTW:
    - a. A pollutant from any source of nondomestic wastewaters that could pass through or cause interference with the operation or performance of the POTW.
    - b. Pollutants that create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F. (60° C.) using the test methods specified in 40 CFR 261.21;
    - c. Wastewater having a pH less than 5.0 or greater than 10.0 or otherwise causing corrosive structural damage to the POTW or equipment;
    - d. Solid or viscous substances in amounts that will cause obstruction to the flow in a sewer or other interference with the operation of the POTW. Total Suspended Solids concentrations in excess of 250 mg/l will be subject to surcharge as identified in § 53.08;
    - e. Pollutants, including oxygen demanding pollutants (such as CBOD), released in a discharge at a flow rate or pollutant concentration that could cause interference with the POTW. CBOD concentrations in excess of 250 mg/l will be subject to surcharge as identified in § 53.08;
    - f. Wastewater having a temperature greater than (110° F. (45° C.)), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 104° F. (40° C.);
    - g. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
    - h. Pollutants that could 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;

- i. Trucked or hauled pollutants, except with the permission of the POTW and when introduced at discharge points designated by the Wastewater Superintendent;
  - j. 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 quality of life, or to prevent entry into the sewers for maintenance or repair;
  - k. Wastewater which imparts color that cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impact color to the treatment plant's effluent, thereby violating the town's NPDES permit;
  - l. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
  - m. Storm water, surface water, ground water, artesian well water, roof runoff, Subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Wastewater Superintendent;
  - n. Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  - o. Medical wastes, except as specifically authorized by the Wastewater Superintendent in a wastewater discharge permit;
  - p. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
  - q. Detergents, surface-active agents, or other substances that may cause excessive foaming in the POTW;
  - r. 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 5% or any single reading over 10% of the lower explosive limit of the meter; or
  - s. Ammonia-Nitrogen discharges to the publicly owned treatment works must be in concentrations that do not cause pass through and interference. Ammonia-Nitrogen concentrations in excess of 25 mg/l will be subject to surcharge as identified in § 53.08.
  - t. Phosphorus discharges to the publicly owned treatment works must be in concentrations that do not cause pass through and interference. Total Phosphorus concentrations in excess of 10 mg/l will be subject to surcharge as identified in § 53.08.
2. Pollutants, substances, or wastewater prohibited by this section must not be processed or stored in such a manner that they could be discharged to the POTW.

**§ 53.06 LOCAL LIMITS.**

- (A) The town has the legal authority to develop and enforce specific limits on prohibited substances such that a pollutant contributed by an industrial user that has caused or is likely to cause interference or pass through at the receiving POTW and the recurrence of the contributed pollutant's effect on the POTW are limited.
- (B) No person shall discharge wastewater containing in excess of the following monthly average and daily maximum limits:

<i>Parameter</i>	<i>Monthly Average Limit</i>	<i>Daily Maximum Limit</i>
Arsenic	3.80	7.73
Cadmium	0.09 mg/l	0.18 mg/l
Chromium	12.26 mg/l	24.51 mg/l (hex)
Copper	2.47 mg/l	4.94 mg/l
Cyanide	0.19 mg/l	0.37 mg/l
Lead	0.39 mg/l	0.79 mg/l
Molybdenum	85.7 mg/l	173.03 mg/l
Nickel	2.24 mg/l	5.59 mg/l
Selenium	0.78 mg/l	1.59 mg/l
Silver	0.43	0.87
Zinc	10.99 mg/l	21.63 mg/l
Oil & Grease (Animal/Vegetable)	200 mg/l	200 mg/l
Oil & Grease (Mineral/Petroleum)	100 mg/l	100 mg/l

- (C) The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise.
- (D) The town reserves the right to establish more stringent standards or requirements on discharges to the POTW.
- (E) 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 or adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard of requirement.

**§ 53.07 GENERAL PRETREATMENT REQUIREMENTS.**

- (A) Pretreatment Facilities - Users must provide wastewater treatment as necessary to comply with this chapter and must achieve compliance with local limits and the prohibitions set out in § 53.06 within the time limitations specified by the Wastewater Superintendent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense.
- (B) Charges and Fees - the town may adopt reasonable fees for reimbursement of costs of setting up and operating the town's pretreatment program which may include:

1. Fees for monitoring, inspection, and surveillance procedures including the cost of collecting and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
2. Fees for reviewing and responding to accidental discharge procedures and construction;
3. Fees for filing appeals; and
4. Other fees as the town may deem necessary to carry out the requirements contained in this chapter.

These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the town.

(C) Additional Measures

1. 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 chapter.
2. The Wastewater Superintendent 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.
3. Grease, oil and sand interceptors or traps shall be provided when, in the opinion of the town they are necessary for the proper handling of liquid waters containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients, except that such interceptors or traps will not be required for private living quarters or dwelling units. All interceptors or traps shall be of a type and capacity approved by the town and shall be located so as to be readily and easily accessible for cleaning and inspection. They shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperatures and shall be of substantial construction, be gas-tight, water-tight and equipped with easily removable covers. Where installed, all grease, oil and sand interceptors or traps shall be maintained by the owner, at his or her expense, in continuously efficient operation at all times. Fats, oils greases and non-biodegradable cutting oils in excess of 100 mg/l which may pass through or interfere with the treatment process are strictly prohibited.
4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
5. The town has the legal authority to accept or deny any new or increased discharges from an indirect discharger.
6. The town has the legal authority to 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. The town has the legal authority to require compliance with all applicable pretreatment standards and requirements by indirect dischargers.

(D) Plans for Pretreatment Facilities – Specifications and any other pertinent information relating to pretreatment or control facilities shall be submitted for

approval of the Control Authority 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 town to determine that such facilities are being operated in conformance with applicable federal, state and local laws and permits.

**§ 53.08 WASTEWATER STRENGTH, REPORTS, & SURCHARGE FOR EXCESS CBOD, SUSPENDED SOLIDS AMMONIA-NITROGEN & PHOSPHORUS.**

- (A) The strength of wastewaters shall be determined, for periodic establishment of charges provided for in the Rate Ordinance, from samples taken at the aforementioned structure at any period of time and of such duration and in such manner as the town may elect, or, at any place mutually agreed upon between the user and the town. Appropriate charges from sampling and analysis may be assessed to the user at the option of the town. The results of routine sampling and analysis by the user may also be used, for determination of charges after verification by the town.
- (B) The town may require users of the POTW, other than residential users, to supply pertinent information on wastewater flow characteristics. Such measurements, tests and analysis shall be made at the users' expense. If made by the town, an appropriate charge may be assessed to the user at the option of the town.
- (C) Normal domestic sewage strength should not exceed a CBOD demand of 250 milligrams per liter of fluid, Total Suspended Solids in excess of 250 milligrams per liter of fluid, Ammonia-Nitrogen in excess of 25 milligrams per liter of fluid, or Phosphorus in excess of 10 milligrams per liter of fluid.
- (D) Additional charges for treatment of stronger than normal domestic waste shall be as follows:
  - 1. There shall be an additional charge of \$0.12 per pound of CBOD in excess of 250 milligrams per liter of fluid; and
  - 2. There shall be an additional charge of \$0.12 per pound of Total Suspended Solids in excess of 250 milligrams per liter of fluid.
  - 3. There shall be an additional charge of \$0.12 per pound of Ammonia-Nitrogen in excess of 25 milligrams per liter of fluid.
  - 4. There shall be an additional charge of \$0.12 per pound of Phosphorus in excess of 10 milligrams per liter of fluid.

**§ 53.09 PRETREATMENT DISCHARGE PERMITS.**

- (A) The Wastewater Superintendent may require new industrial users or existing users to apply for a discharge permit.

- (B) The purpose of the permit is to protect the POTW from pass through and interference.
  
- (C) Wastewater discharge permits may contain, but not be limited to, the following:
  1. Limits on the average and/or maximum rate of discharge and requirements for flow regulation;
  2. Limits on the daily and monthly average and/or maximum concentration, mass or other measures of identified wastewater pollutants or properties;
  3. Requirements for the installation of pretreatment facilities, pollution control or construction of appropriate containment facilities designed to reduce, eliminate or prevent the introduction of flow or pollutants to the treatment plant that have the potential to cause pass through and interference of the POTW;
  4. Development and implementation of spill control plans, total toxic control plans or other special conditions including management practices necessary to prevent accidental or unanticipated discharges;
  5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the treatment plant;
  6. Implement surcharges for conventional pollutants including, but not limited to TSS, CBOD, Ammonia, Phosphorus and Oil & Grease;
  7. Requirements for installation and maintenance of inspection, sampling facilities and equipment;
  8. A statement that compliance with the wastewater discharge permit does not relieve the industrial user from compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the discharge permit; and
  9. Other conditions as deemed necessary by the Wastewater Superintendent to ensure compliance with this chapter, federal and state laws, rules and regulations.

**§ 53.10 COMPLIANCE MONITORING.**

- (A) Right of Entry: Inspection and Sampling. The Wastewater Superintendent or duly authorized representative (Inspector) bearing the proper identification and credentials shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Inspector ready access to all parts of the premises for the purposes of inspections, surveillance, record review, monitoring as necessary to determine compliance with this Ordinance, if applicably or any industrial wastewater pretreatment permit.
  1. 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 Inspector will be permitted to enter without delay for the purposes of performing specific responsibilities.

2. The Inspector 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.
3. The Wastewater Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
4. 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 Wastewater Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.
5. Unreasonable delays in allowing the Inspector access to the user's premises shall be a violation of this Ordinance.
6. Inspection of industrial users for the purposes of verifying industry self-monitoring information will be done at such intervals as determined by the Wastewater Superintendent to be necessary to detect prohibited discharges. The minimum surveillance schedule to be conducted by the POTW, if deemed warranted by the Wastewater Superintendent, will be semi-annually.
7. A seven (7) day monitoring period shall be allowed if deemed warranted in order to obtain representative data. The surveillance period will normally be for a period of one (1) day representative of the normal production day, but can be of longer duration at the discretion of the Wastewater Superintendent. In cases where the surveillance period extends for a greater number of consecutive days than seven (7), the Albany POTW shall have the prerogative of selecting the seven (7) consecutive days of its choice for establishing rates and charges.
8. The Albany POTW may sample and conduct inspection activities of SIU's contributing and non-SIU industries when deemed necessary by the Wastewater Superintendent to verify, independent of information supplied by industrial users, compliance or non-compliance with applicable pretreatment standards. For scheduled surveillance, the user shall be given the option of splitting the obtained sample such that it may be analyzed by the user.
9. While performing the necessary work on private properties referred to above, the Wastewater Superintendent or duly authorized employees of the Town shall observe all safety rules applicable to the premises established by the user, and the user shall be held harmless for injury or death to the Town employees and the Town shall indemnify the User against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out

of the gauging and sampling operation, except as they may be caused by negligence or failure of the user to maintain safe conditions.

10. The Wastewater Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties for the following activities, including, but not limited to inspection, observation, measurement, sampling, repair, and maintenance. All entry and subsequent work, if any, on an Easement, shall be done in full accordance with the terms of the duly negotiated Easement pertaining to the private property involved.

#### **§ 53.11 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 Wastewater Superintendent'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 Wastewater Superintendent that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law or would otherwise be exempt from disclosure pursuant to applicable 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 exempt from disclosure, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public. Notwithstanding anything herein to the contrary, any such information and/or data shall be made immediately available if access to such information and/or data is specifically required by a State or Federal statute, rule or regulation or is ordered by a court (with appropriate jurisdiction) under the rules of discovery.

#### **§ 53.12 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.**

The Albany Wastewater Department shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the Albany POTW, 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 wastewater measurements taken during a six-month (6-month) period exceed (by any magnitude) a Numeric Pretreatment Standard or Requirement including Instantaneous Limits as defined by § 53.06;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month (6-month) period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including

Instantaneous Limits, as defined by § 53.06 multiplied by the applicable criteria (1.4 for CBOD, COD, TSS, fats, oils, and grease, 1.2 for all other pollutants except pH);

- (C) Any other discharge violation of a Pretreatment Standard or Requirement as defined herein that the Wastewater Superintendent believes 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 pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Wastewater Superintendent to exercise emergency authority under 327 IAC 5-19-3(1)(G) 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 forty-five (45) 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 Best Management Practices (BMPs), that the Town of Albany upon recommendation of the Wastewater Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

**§ 53.13 AUTHORITY TO INSPECT.**

- (A) The Wastewater Superintendent, Inspector and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing in accordance with the provisions of this chapter. The Wastewater Superintendent or his or her representative 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 of source of discharge to the sewers, waterways or facilities for waste treatment.
- (B) While performing the necessary work on private properties referred to in division (A) above, the Wastewater Superintendent or duly authorized employees of the town 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 town employees and the town shall indemnify the company against loss or damage to its property by town 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 herein.

- (C) The Wastewater Superintendent and other duly authorized employees of the town bearing proper credentials and identification shall be permitted to enter all private properties through which the town 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 POTW lying within the easement. All entry and subsequent work, if any, on the easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.
- (D) Where a user has security measures in force that 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 Wastewater Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (E) The Wastewater Superintendent 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.
- (F) The Wastewater Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at own expense. All devices used to measure wastewater flow and quality shall be calibrated yearly to ensure their accuracy.
- (G) Any temporary or permanent obstruction to the safe and easy access of the facility to be inspected and/or sampled must be promptly removed by the user at the written or verbal request of the Wastewater Superintendent and shall not be replaced. The costs of cleaning such access shall be borne by the user.
- (H) Unreasonable delays in allowing the Wastewater Superintendent access to the user's premises is be a violation of this chapter.

#### **§ 53.14 SEARCH WARRANTS.**

If the Wastewater Superintendent or his designee has been refused access to a building, structure or property or any part thereof, and if the Wastewater Superintendent has demonstrated probable cause to believe that there may be a violation of this Ordinance or that there is a need to inspect as part of a routine inspection program of the Town of Albany designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community or the

environment, then upon application by the Town Attorney, a judge of a circuit or superior court of the county in which the wastewater discharge in question enters the POTW shall issue a search and/or seizure warrant describing the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Wastewater Superintendent in the company of a uniformed police officer of the Town of Albany. In the event of an emergency affecting public health and safety or environmental quality, inspections shall be made without the issuance of a warrant.

## **ADMINISTRATIVE ENFORCEMENT REMEDIES**

### **§ 53.15 NOTIFICATION OF VIOLATION.**

- (A) When the Wastewater Superintendent finds that a user has violated, or continues to violate, a discharge permit, any provision of this chapter or order issued hereunder, the Wastewater Superintendent may serve upon that 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 Wastewater Superintendent requires the user to adhere. Within thirty (30) days of the date of receipt of this notice, the user shall submit to the Wastewater 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).
- (B) 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 Wastewater 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 Town of Albany to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

### **§ 53.16 COMPLIANCE ORDERS.**

When the Wastewater 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 Town of Albany 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.

#### **§ 53.17 SHOW CAUSE ORDER AND HEARING.**

The Wastewater Superintendent may serve upon any user who causes, allows or contributes to a violation of this ordinance, its discharge permit, or any order issued hereunder, or an unauthorized discharge to enter the POTW a written show cause order. Said order must be given at least fifteen (15) days prior to the hearing in accordance with this 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 53.17 (A) above;
- (C) The nature of the violation(s);
- (D) An order to the user to appear before the Town Council to show cause as to why the Town would 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 chapter and may subject the user to such other enforcement response that may be appropriate; and
- (H) The name, address and telephone number of the Wastewater Superintendent.

The Town Council 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 Town Council 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; and
- (C) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Town Council for action thereon.

A hearing must be held relative to each show cause order of the Town and the hearing shall be held on a business day no earlier than fifteen (15) days after notice of the show cause order is given. 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.

After the Town Council 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.

**§ 53.18 CEASE AND DESIST ORDERS.**

- (A) When the Wastewater 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 Wastewater 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, and
  2. 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.
- (B) In an emergency, the order to cease and desist may be given by the Wastewater 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. Cease and Desist Orders are appealable to the Town Council within fifteen (15) days of such order is issued.

**§ 53.19 ADMINISTRATIVE FINES.**

- (A) When the Wastewater Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Wastewater Superintendent may impose a fine 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).
- (B) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 12% 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 shall file a written request for the Wastewater Superintendent to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. The Wastewater Superintendent 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 Wastewater Superintendent 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.

**§ 53.20 EMERGENCY SUSPENSIONS.**

- (A) The Wastewater Superintendent may immediately suspend a user's discharge after formal notice to the user whenever such suspension is necessary in the opinion of the Wastewater 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 Town of Albany to violate any condition of its NPDES permit.
- (B) 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 Wastewater Superintendent shall take such steps as deemed necessary, including, but not limited to, immediate severance of the sewer connection, to minimize damage to the POTW system or endangerment to any individuals or to the environment.
- (C) The Wastewater Superintendent shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Town of Albany that

the period of endangerment has passed, unless the termination proceedings set forth in § 53.21 are initiated against the user.

- (D) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Wastewater Superintendent prior to the date of any show cause or termination hearing under § 53.17 and § 53.21.
- (E) The Wastewater 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 Town of Albany to violate its NPDES permit.
- (F) Nothing in this ordinance shall be interpreted as requiring a hearing prior to any emergency suspension.

**§ 53.21            TERMINATION OF DISCHARGE.**

In addition to the provisions of this ordinance, 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 or local limits in this ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 53.17 why the proposed action should not be taken. Exercise of this option by the Wastewater Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

**§ 53.22            WATER SUPPLY SEVERANCE.**

Whenever a user has violated or continues to violate any provision of this chapter, or order issued hereunder, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to the Wastewater Superintendent its ability to comply.

**§ 51.53 JUDICIAL ENFORCEMENT REMEDIES.**

- (A) *Injunctive relief.* When the Wastewater Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Wastewater Superintendent may petition the court of jurisdictional authority through the Town 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 chapter on activities of the user. The Wastewater Superintendent 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.
- (B) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The Wastewater Superintendent may take any, all, or any combination of these actions against a noncompliant user.

**AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**§ 53.24 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 division (C) 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 workmanlike manner and in compliance with applicable operation and maintenance procedures; and
  - 3. The user has submitted the following information to the Wastewater Superintendent within 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 standard 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.

**§ 53.25 PROHIBITED DISCHARGE STANDARDS.**

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general or specific prohibitions in § 53.05 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 town was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

**§ 53.26 BYPASS.**

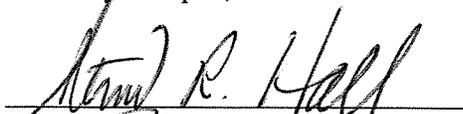
- (A) For the purposes of this section:
  1. **BYPASS** means the intentional diversion of wastestreams from any portion of a user's treatment facility.
  2. **SEVERE PROPERTY DAMAGE** means substantial physical damage: to property, damage to the treatment facilities which causes them to become inoperable, 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 any 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 divisions (C) and (D) of this section.

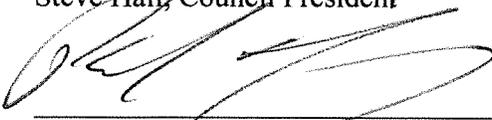
- (C) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Wastewater Superintendent, at least ten (10) days before the date of the bypass, if possible.
  - 1. A user shall submit oral notice to the Wastewater Superintendent of an unanticipated bypass that exceeds 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 Wastewater Superintendent may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
  
- (D) Bypass is prohibited, and the Wastewater Superintendent 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 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 division (C) of this section.
  
- (C) The Wastewater Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Wastewater Superintendent determined that it will meet the three conditions listed in division (D) of this section.

§ 53.27      ADOPTION.

*DULY PASSED AND ADOPTED* by the Town Council of the Town of Albany, Indiana on this, the 22nd day of April, 2019.

  
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Steve Hall, Council President

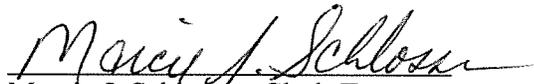
  
\_\_\_\_\_  
Randall Dunnuck, Council Member

  
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Paul Ashcraft, Council Member

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Chris Kirby, Council Member

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Chris Hamilton, Council Member

ATTEST:

  
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Marcie J. Schlosser, Clerk-Treasurer