

TITLE V: PUBLIC WORKS

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CHAPTER 50. GENERAL UTILITIES: POLICIES AND PROCEDURES

' 50.01 CONFLICT OF LAW; DEFINITIONS.

(A) These policies and procedures have been adopted pursuant to and in accordance with Indiana law. Any conflict between state law, including relevant provisions of the Indiana Administrative Code, shall be resolved in accordance with state law and shall not render void any other policy or procedure not in conflict with law.

(B) To the extent any matter is not addressed in these policies and procedures shall be governed by the relevant provisions of the Indiana Code, the Indiana Administrative Code, or both.
(Res. 2013-2A, passed 2-19-13)

' 50.02 NORMAL BUSINESS HOURS.

(A) Normal business hours are 8:00 a.m. until 4:00 p.m. Monday through Friday, except on scheduled holidays.

(B) The Town Manager may find it necessary to close the office from time to time. In this event, a sign will be posted on the front door to notify customers when the office is expected to reopen.
(Res. 2013-2A, passed 2-19-13)

' 50.03 ESTABLISHING NEW SERVICE.

Anyone that desires to establish water and/or sewer service through the town public utility services must first provide each of the following:

(A) A complete, accurate and executed utility service agreement in a form and manner presented by the town. Said form(s) shall be made available at the front office of the public utility administrative building and on the town's website.

(B) A valid, state-issued photo identification card or driver's license, or valid passport, a copy of which shall be maintained by the town.

(C) Written legal documentation demonstrating the individual's interest in the property for which the service is to be provided. This may be secured through a written and executed lease/rental agreement, a form provided by the utility office, the title to the property, a closing statement secured in the purchase of the property, a tax assessment statement, or other properly recorded legal document verifying the individual's interest in and/or ownership of the property.

(D) Full payment of any required deposit.

(E) Payment in full of any prior unpaid delinquencies due and payable to the town for prior utility services.

(F) For rental and non-owner occupied properties, the town reserves the right to require the owner of the property to complete the requirements for establishing new service.
(Res. 2013-2A, passed 2-19-13)

' 50.04 DEPOSITS.

(A) A water security deposit shall be paid for all new accounts at the same time service is established. Security deposits shall not accrue interest. (See current rate policy for amount.)

(B) The deposits shall be applied towards the final bill for utility services rendered. Any unused portion of the deposit shall be refunded to the account holder within 30 days of the final billing statement. Refunds shall be mailed to the last known address which was provided by the account holder to the town.

(C) If the account holder is moving from one property within the town's service area and establishing service at another property within the town's service area, the deposit(s) may be applied to any required deposit(s) for the new service address.

(D) (1) The deposit, less any outstanding penalties and service fees, shall be refunded to the depositor after a notarized statement from the depositor that as of a certain date the property being served:

(a) Has been conveyed or transferred to another person; or

(b) A structure has been removed and is no longer connected to any part of the municipal sewage system.

(2) A statement under division (1) must include the name and address of the person to whom the property is conveyed or transferred.

(E) Deposits that remain unclaimed by the depositor for more than seven years after the termination of the services for which the deposit was made become the property of the town. Indiana Code ' 32-34-1 (unclaimed property) does not apply to this deposit.

(F) If a depositor fails to satisfy costs and fees within 60 days after the termination of the depositor's use or ownership of the property served, the depositor forfeits the deposit and all accrued interest. The forfeited amount shall be applied to the depositor's outstanding fees. Any excess that remains unpaid may be collected by the town as allowed by law.

(G) The Fortville Town Council shall establish by separate ordinance the deposit required as described under this section. (See current rate policy for amount.)

(H) The owner of a property may have the water turned on for a period of five business days for inspection and maintenance of the property. A security deposit will not be required in this instance; however, the property owner will be responsible for the cost of service and the turn on fee. (Res. 2013-2A, passed 2-19-13; Am. Ord. 2016-8A, passed 8-1-16)

' 50.05 AUTHORIZATION FOR THE RELEASE OF INFORMATION; IDENTITY THEFT PREVENTION.

(A) The Fortville Town Council has established by separate ordinance a program to prevent identity theft.

(B) Anyone receiving customer information shall take all necessary action to protect that customer from identity theft.

(C) Employees are not to give out any personal information, absent a release authorizing the disclosure of the same. Account charges and payments shall not be construed as personal information, and may be released if the request is for information related to the address and not for a particular customer.

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(D) Anyone that desires access to complete account information regarding water or sewer service provided through the town public utility service, for an account held in the name of another, shall either be specifically named on the utility service agreement or provide an authorization for the release of such information executed by the account holder in a form and manner presented by the town. For the purposes of this section, a properly executed Indiana Power of Attorney shall be an acceptable form. Additionally, a release of information included in a lease agreement shall be an acceptable form authorizing such release so long as the lease agreement specifically provides for such. An example of acceptable language would be: Tenant authorizes landlord to obtain account information for any utilities provided to the property.

(E) Said authorization forms shall be made available at the front office of the public utility administrative building and on the town's website.

(F) Said authorization forms shall designate the manner in which such information may be communicated to the authorized person(s), i.e. verbally, in person/by telephone, by email and/or in writing.

(G) Said authorization forms shall further designate that the execution of such document enables the authorized person(s) access to all information regarding said account, including but not limited usage, payment history, delinquency information, current and forwarding contact information, and all other information regarding the use and services rendered by the town public utility for said account holder.

(H) Information regarding account information shall not be released to persons not specifically designated on the utility service agreement, absent an executed authorization for the release of such information. For the purposes of this section, a properly executed Indiana Power of Attorney shall be an acceptable form.

(I) Persons specifically designated on the utility service agreement shall have equal access to all information regarding the account, in the same manner as the account holder.
(Res. 2013-2A, passed 2-19-13)

' 50.06 BILLING; DELINQUENT PAYMENTS; DISCONNECTION.

(A) All bills for payment of utility service and/or fees shall contain the contact information for the utility office in clear and visible format including the following information:

Fortville Water Works
714 East Broadway
Fortville, Indiana 46040-1557

- (1) The amount due for water, wastewater, storm water charges, and a combined amount due;
- (2) That all bills are due and payable on or before the date set forth on the bill ("due date");

(3) The amount due including late charges, if payment is not received by the town on or before the due date; and,

(4) The following notice: Immediate water disconnect if not paid in full by (insert date).

(B) All meters shall be read no later than the twentieth of each month. All bills shall be mailed no later than the first business day of the month following the reading and shall be payable in full by open of business on the first business day following the seventeenth of the month.

(C) Rates and charges for the use of and the service rendered by the town for utility services shall be established by separate ordinance issued by the Fortville Town Council (see current rate policy for amount).

(D) Bills paid after the due date shall be assessed a late charge for both water and sewer at a rate set forth by separate ordinance issued by the Fortville Town Council. (See current rate policy for amount.) Late fees shall not be assessed until the open of business on the first business day following the seventeenth of the month, if the bill has not otherwise been received at that time.

(E) Discontinuation of service due to nonpayment shall be made on or as soon as reasonably possible after the disconnection date. Discontinuation of service due to nonpayment shall be made no earlier than the date set forth on the billing statement. Notice as provided on the billing statement of the discontinuation of service shall be sufficient and no additional notice shall be necessary prior to discontinuation of service.

(F) Water service may be disconnected for payment by check that is returned for insufficient funds as set forth in ' 50.13 below.

(G) As a courtesy, reasonable effort should be made to send a letter to the property owner, notifying the owner that service has been disconnected within 30 days of the actual disconnection. Further notice need not be given if service is reinstated.

(Res. 2013-2A, passed 2-19-13)

' 50.07 VOLUNTARILY DISCONTINUING SERVICE.

(A) Any account holder that desires to discontinue utility service, or otherwise remove themselves from financial responsibility of further usage and charges must accurately complete and sign a discontinue request in a form and manner presented by the town.

(B) Said forms shall be made available at the front office of the public utility administrative building.

(C) Discontinuation of services shall not prevent the town from seeking collection of any unpaid fees for services rendered by the utility.

(D) If an account holder has a deposit held by the town, it shall be applied to the final bill, or as otherwise prescribed under ' 50.03 above.

(Res. 2013-2A, passed 2-19-13)

' 50.08 FINANCIAL RESPONSIBILITY FOR PUBLIC WORKS SERVICES.

(A) Financial responsibility for public works services associated with wastewater and storm water, may only be transferred with written verification evidencing the valid and legal transfer of ownership of the property.

(B) The town shall make an effort to collect any fees for public works services from the named account holder; however, the town reserves the right to reject the transfer of the ultimate legal financial responsibility for such public works services absent verification of legal transfer of ownership of the property.

(C) If a bill becomes 60 days past due, then, on the sixty-first day (or as soon as reasonably practical thereafter, but not later than when the bill is 80 days past due), notice shall be sent to the property owner, if the property is not occupied by the owner, stating that a lien shall be placed on the property for the unpaid sewer bill.

(D) The town authorizes the Utility Clerks and/or Office Manager to file a lien on unpaid Public Works Services pursuant to the rules and procedures set forth under Indiana Code.

(E) Liens shall be submitted on a quarterly basis; however no lien for a rental or non-owner occupied property shall be submitted until at least 60 days has elapsed from the date notice was submitted to the property owner as set forth under division (B) above.

(F) The utility office will make every effort to collect outstanding balances due. However, due to the cost of filing liens, the utility shall not file a lien for a sewer balance of \$40 or less.
(Res. 2013-2A, passed 2-19-13)

' 50.09 SERVICE FEES.

(A) A "reconnection fee" for both water service and sewer service shall be charged if utility service is discontinued due to nonpayment, bad check or delinquent payment. A "reconnection fee" for just water service shall be charged if utility service was discontinued for any other reason, not specifically identified herein. No "reconnection fee" shall be charged if utility service was discontinued for purpose of maintenance/service/repair of the utility by the town. Reconnection fees must be paid in full during normal business hours at the administrative building of the utility, before service will be reestablished.

(B) An "after hour service fee" shall be charged if a service call is performed outside of normal business hours. After hour service fees shall be assessed on the next billing cycle.

(C) A "bad check fee" shall be charged if a check for payment of any utility service is not honored, for any reason, by the bank upon which the check was written. Bad check fees must be paid during normal business hours at the administrative building of the utility, before service is reestablished, or as otherwise described below.

(D) A "meter test fee" shall be charged if a meter test is requested by an account holder or property owner and the results indicate that the meter is functioning within industry standards as defined under the AWWA standards. No meter test charge shall be assessed if a meter test is conducted by request or otherwise and the meter is not functioning within industry standards as defined under AWWA standards. Meter test charges shall be assessed on the next billing cycle if requested by the account holder. If requested by the property owner and that person is not also the account holder, a separate bill shall be sent to the property owner and payable within 30 days of the billing statement.

(E) To the extent any customer violates a town ordinance regarding damage to or obstruction of any water, sewer, or storm sewer system, the customer shall be cited for an ordinance violation and fined \$250 which shall be submitted to the town's Ordinance Violations Bureau.
(Res. 2013-2A, passed 2-19-13; Am. Ord. 2014-4A, passed 4-21-14)

' 50.10 CONTESTING SERVICE FEES.

(A) Any service fees not exceeding \$500 may be contested by submitting notice of the dispute in writing to the Town Manager no later than 30 days after the fee assessment. In the event the dispute is not resolved, the customer may bring the matter before the Fortville Town Council, by filing written request to contest the service fee with the Fortville Town Council President no later than ten days after the Town Manager has provided written notice of his/her decision.

(B) Any disputed service fees exceeding \$500 may be contested by filing written request to contest the service fee with the Fortville Town Council President no later than 30 days after the Town Manager has provided written notice of his/her decision.

(C) Only the person to whom the fee is assessed may contest the service fee.

(D) Filing a written request to contest the service fee shall not prevent discontinuation of services as otherwise provided herein or stay the payment of the service fee, except as specifically provided in these policies and procedures.

(E) Upon receipt of a written request to contest a service fee before the Fortville Town Council, the matter shall be placed on the agenda and heard by the Fortville Town Council at a regularly scheduled public meeting within 30 days of the written request to contest. The matter shall be determined by a majority vote of the Fortville Town Council.

(F) If the Fortville Town Council determines that the service fee was not proper or otherwise should not have been assessed, then reimbursement of any payment made for the service fee shall be made by the Town within three business days following the determination.
(Res. 2013-2A, passed 2-19-13)

' 50.11 RECONNECTIONS.

(A) Utility service may not be reconnected outside of normal business hours, if the discontinuation of service resulted from nonpayment, bad check or delinquent payment of an account.

(B) Reconnection of services shall be made as soon as reasonably possible after payment of all outstanding delinquencies of water service and/or sewer service bills, service fees, bad check fees and deposits, as may be applicable.

(C) Payment for outstanding delinquencies, service fees, bad check fees and deposits shall be made during normal business hours at the administrative building of the utility.

(D) Utility service shall not be reconnected for partial payment of combined amount due for water, sewer, and storm water service bills. All fees and delinquencies shall be paid in full before service may be reinstated.

(E) Subject to an "after hour service fee" referenced and paid as described above, utility service which is discontinued for reasons other than nonpayment, bad check or delinquent payment, may be reconnected outside of normal business hours, as soon as reasonably possible, providing that an employee of the utility department authorized to perform such duty is available to perform the task.

(Res. 2013-2A, passed 2-19-13)

' 50.12 METER TEST REQUESTS.

(A) Account holders or property owners may request a meter test by submitting a Meter Test Request Form to the town, which are available at the front office of the public utility administrative building.

(B) Meter tests shall be made as soon as reasonably possible after the submission of a Meter Test Request Form.

(Res. 2013-2A, passed 2-19-13)

' 50.13 BAD CHECKS.

(A) The town shall notify the account holder by certified mail if a check is not honored by the bank, as soon as reasonably possible. The notice shall set forth the bad check fee as well as the date upon which utility service will be discontinued or has been discontinued as determined below.

(B) An account holder has ten business days after the date the notice of the bad check was issued to tender payment sufficient to cover the amount for which the check was written and the bad check fee.

(C) Payment must be tendered in the form of cash, cashier's check or money order and must be paid to the administrative building of the utility, during normal business hours. Failure to tender said payment within the period described shall result in the immediate termination of utility service. Reconnection of service shall be subject to the provisions set forth above.

(D) If the check was written for payment of utility fees after the designated due date or if written for payment of a deposit, the ten-day period to make full payment to the town to cover the bad check

referenced above, shall not apply, and utility service shall be discontinued as soon as reasonably possible upon notice having been received from the bank. No notice shall be required to the account holder if service is terminated under this provision.

(E) The disconnection policy set forth in ' 50.06 shall still apply in the event the account holder submits a "bad check" to the town.

(F) Any check not honored by the bank and for which payment has not been made, shall be tendered to the Hancock County Prosecutor's Office for prosecution.

(Res. 2013-2A, passed 2-19-13)

' 50.14 SUMMER CREDITS.

Effective January 1, 2012, and for all dates thereafter, the town shall no longer provide summer credits and/or adjustments for sprinkler credits, pool credits or other summer credits previously established under prior ordinance or practice.

(Res. 2013-2A, passed 2-19-13)

' 50.15 LEAK ADJUSTMENTS.

(A) Upon request, or upon discovery of a leak by utility personnel, the town may adjust an account holder's sewer fee if a water leak has occurred.

(B) The adjustment shall be for the billing cycle during which the leak occurred, not to exceed two consecutive months.

(C) The adjustment shall be calculated so that the sewer fee charge during the month(s) of the leak is equal to the average sewer fee charged during the three months prior to the leak, for the property incurring the leak.

(D) Before an adjustment is made, the account holder must have the leak repaired and provide written verification evidencing the repair was made. The town may inspect the property, upon notice, to verify and/or confirm the leak and/or the repair.

(E) An adjustment may not be made if the leak caused water to enter the sanitary sewer system.

(F) Only one leak adjustment shall be permitted per property during a 12 month period.

(Res. 2013-2A, passed 2-19-13)

' 50.16 WATER METER ACCESSIBILITY AND TAMPERING.

(A) Water meter pits must be in a location that will permit accessibility for reading of the water meter as well as replacement/repair/maintenance/inspection of the water meter and pits.

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(B) Water meter pits must remain free of obstruction so as to enable such accessibility.

(C) Property owners shall be responsible for ensuring that the water meter pit(s) remains free of obstruction so as to enable such accessibility.

(D) Prohibited obstructions shall include, but not be limited to dogs, kennels, shrubbery, flower beds, vehicles, or other objects placed over, near or on the pit such that accessibility is obstructed, limited or otherwise requires the removal of such objects.

(E) If an obstruction exists which limits the accessibility as described herein, the property owner shall be notified in writing of the obstruction and shall have 24 hours after the issuance of the written notice to remove the obstruction so as to provide the necessary accessibility required by the town. If the obstruction is not removed within 24 hours, the town may remove the obstruction and the property owner may be fined an "obstruction fee" as set out in the town's Ordinance Violations Bureau Schedule of Fees.

(F) The water meter pit, piping and lid are owned by the property owner; however, the property owner is responsible for ensuring that meter pit, piping and lid are maintained in a safe and proper condition according to the town's specifications.

(G) All meters, meter valves and/or remotes damaged by a customer which require replacement shall be assessed the cost of labor and material and charged to the customer.

(H) Any damage to these items should be immediately reported to the town for proper inspection and repair.

(I) A violation of this section is subject to a fine of \$250 and/or service may be discontinued to the customer who fails to maintain the meter pit according to current town specifications.

(J) If a customer request to have a meter pit relocated, all costs associated with the relocation of a meter pit shall be the sole responsibility of the property owner.

(K) The meter, meter valves and/or remote located inside the pit are owned by the town. The meter, meter valves and/or remote may not be relocated without the written authorization of the town.

(L) In addition to the fines set forth under this section, the town may discontinue service for failure to comply with the terms of this section, until such time as there is compliance with this section.

(M) Reconnection of service shall be subject to a reconnection fee at the same rate, and in the same manner as reconnection following a discontinuation of service for nonpayment.

(Res. 2013-2A, passed 2-19-13; Ord. 2014-4A, passed 4-21-14)

' 50.17 METHODS OF PAYMENT.

(A) The town may accept payment for utility services and fees in the form of check, cash, money order, certified check, cashier's check, credit/debit cards, or electronic funds transfer once such a system is established for electronic fund transfers, except as set forth under this section.

(B) The town shall not accept payment in the form of coins in an amount in excess of \$5.00.

(C) The town shall not accept payment for utility services and/or fees in the form of a check from any account holder or property owner who has issued two or more checks for any property which have not been honored by the bank within any 12 month period, until such time as the account holder or property owner has made 12 consecutive timely payments.

(Res. 2013-2A, passed 2-19-13)

' 50.18 AFTER-HOURS EMERGENCIES.

(A) Account holders and/or property owners experiencing after hour emergencies shall contact the town at 317-485-4044 and leave a message on the emergency line. The town shall establish a system so as to direct after hours emergency calls to the individual within the utility department on call.

(B) A representative of the utility department authorized to assist in emergency matters shall be on call at all times after normal business hours.

(C) Notification shall be made to the caller through an automated system, or otherwise, that if a response to the emergency call is not received within a reasonable period of time, the caller should contact the Hancock County Sheriff's Department and request a dispatch be made to the Fortville Police Department regarding the emergency.

(D) Discontinuation of services due to nonpayment, bad check or delinquent payment does not constitute an emergency and shall be directed to the utility department the following business day.

(E) Information regarding this section shall be posted within the public area of the administrative building of the utility department.

(Res. 2013-2A, passed 2-19-13)

' 50.19 DELINQUENT ACCOUNT; WRITEOFFS.

(A) The town shall make reasonable effort to collect any and all delinquent utility accounts.

(B) The Fortville Town Council may establish, by separate resolution, specific and/or additional collection methods.

(C) The town may pursue all other remedies available under Indiana Law for delinquent water, storm water, and sewer accounts.

(D) Delinquent accounts for storm water and sewer fees and services which fail to meet the minimum threshold for obtaining a lien shall be written off if the same are uncollected for a period of two years or longer.

(E) Delinquent accounts for water fees and services shall be written off if the same are uncollected for a period of two years or longer.

(F) The town shall maintain record of any and all delinquent accounts, irrespective of whether the same have been written off or not.

(G) The Town Council may from time to time approve the write off of any other delinquent utility account by majority vote.
(Res. 2013-2A, passed 2-19-13)

' 50.20 CAPACITY AND CONNECTION FEES.

(A) New connections to the town's waterworks or to the town's sewage works, either by mandate under a separate ordinance issued by the Fortville Town Council, or by request of the property owner, shall be assessed and pay a capacity fee in addition to any other fees or charges paid to the town.

(B) Capacity fees shall be paid prior to establishing a connection to the town's waterworks or the town's sewage works.

(C) Each structure being served with sewer is required to have its own individual service line. Each EDU within the structure shall pay a capacity fee at the time of establishing the dwelling unit and be subject to the monthly rates according to the current policy.

(D) For residential properties connecting to the water, all equivalent dwelling units are required to be metered separately. Each equivalent dwelling unit within a structure shall pay the capacity fee at the time of establishing the EDU and be subject to the monthly rates according to the current policy as long as the water is turned on.

(E) In the event that a structure is removed or physically disconnected for any reason for a period of 12 months or more, a capacity fee for sewer and water will be charged to reconnect to the system.

(F) The Fortville Town Council has established by separate ordinance the capacity fees required as described under this section. (See current rate policy for amount.)
(Res. 2013-2A, passed 2-19-13)

Section

- 51.01 Water works rates and charges established
- 51.02 Connection charges
- 51.03 Water meter deposits
- 51.04 Charges for specific services
- 51.05 Water and sewage bills

CHAPTER 51. WATER SERVICE

' 51.01 WATER WORKS RATES AND CHARGES ESTABLISHED.

There shall be and there is established for the use of and the service rendered by the Water Works System of the Town of Fortville, Indiana, rates and charges based upon the amount of water supplied during each monthly billing period which shall be as determined by the Town Council from time to time. (^87 Code, ' 9-49) (Ord. 1980-6B, passed 6-18-80)

' 51.02 CONNECTION CHARGES.

The connection charges for a service requiring a 5/8 inch meter shall be as determined by the Town Council from time to time. The connection charge for a service requiring a meter which is larger than 5/8 inch shall be as determined by the Town Council from time to time. (^87 Code, ' 9-50) (Ord. 1980-6B, passed 6-18-80; Am. Ord. 1993-8A, passed 8-10-93)

' 51.03 WATER METER DEPOSITS.

The water meter deposit shall be as determined by the Town Council from time to time. (^87 Code, ' 9-51) (Ord. 1968-10A, passed 10-22-68)

' 51.04 CHARGES FOR SPECIFIC SERVICES.

(A) Charges are set to cover expenses incurred and will not render or generate a profit and will be determined by the Town Council from time to time.

(B) All meter or meter valves damaged by a customer which require replacement shall be assessed the cost of labor and material and charged to the customer.

(^87 Code, ' 9-61)

' 51.05 WATER AND SEWAGE BILLS.

(A) It is the policy of the town to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The town's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, service will be discontinued for nonpayment in accordance with the procedures set forth in this section; and

(3) That any customer disputing the correctness of the bill shall have a right to a hearing at which time the customer may be represented in person and by counsel or any other person of the customer's choosing and may present orally or in writing his complaint and contentions to the town official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) (1) Bills will be mailed to be received on or before the first day of the month, and will be due in full on or before the seventeenth day of the billing month.

(2) Bills paid after the seventeenth will be charged a late payment penalty on both the water and sewage at rates in accordance with applicable ordinances.

(3) Accounts not paid by the twentieth will be issued a letter requesting payment in full, advising of the payment policy and of the potential loss of service within 20 days. In the case of rentals a copy of this letter will also be sent to the property owner.

(4) The past due amount with late charges will be added to the following months bill. This bill will be rubber stamped in red ink on the face of the bill. Must be paid in full by the seventeenth or service will be discontinued on the eighteenth.

(5) On the eighteenth shut off water services to these unpaid accounts and charge the current months bill a late charge.

(6) Water service will be resumed only after the total bill with late charges has been paid in full. Services will not be resumed on partial bill payment.

(7) Accounts unpaid after the first day of the following month (third month) will be added to the owner=s property tax.

(^87 Code, ' 9-62)

Statutory reference:

Termination of water service for unpaid sewage charges, see I.C. 8-1.5-3-4

Cross reference:

Sewer service, see Chapter 52

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GENERAL PROVISIONS**' 52.001 PURPOSE AND POLICY.**

(A) This chapter sets forth uniform requirements for users of the publicly owned treatment works for the Town of Fortville and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR 403). The objectives of this chapter are:

(1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;

(2) 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;

(3) 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;

(4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;

(5) To provide for fees for the equitable distribution of the costs of operation, maintenance and improvement of the publicly owned treatment works; and

(6) To enable the town 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.

(B) This chapter shall apply to all direct and indirect users of the publicly owned treatment works, including persons outside the town who are, by contract or agreement with the town, users of the publicly owned treatment works. This chapter authorizes the issuance of 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 and for fines and other remedies for violation of this chapter.
(Ord. 2000-11B, passed 11-28-00)

' 52.002 ADMINISTRATION.

(A) Except as otherwise provided herein, the Superintendent shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other town personnel.

(B) The town will maintain sufficient resources and qualified personnel to carry out the hybrid pretreatment program in accordance with 327 I.A.C. 5-13-4(f)(c).

(C) If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.
(Ord. 2000-11B, passed 11-28-00)

' 52.003 ABBREVIATIONS.

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

AAS	-	Alkyl Aerial Sulfonate
ABS	-	Alkyl Benzene Sulfonate
BOD ₅	-	Biochemical Oxygen Demand - Five Day
CFR	-	Code of Federal Regulations
COD ₅	-	Chemical Oxygen Demand - Five Day
EPA	-	U.S. Environmental Protection Agency - Washington D.C.
EPA Region V	-	U.S. Environmental Protection Agency, Region V - Chicago, Illinois
FOG	-	Fats, Oil and Grease
gpd	-	gallons per day
I.A.C.	-	Indiana Administrative Code
I.C.	-	Indiana Code
I/I	-	Inflow and Infiltration (Clear Water Flow)
IDEM	-	Indiana Department of Environmental Management
IWP	-	Industrial Wastewater Discharge Permit
MGD	-	Million Gallons per Day
mg/l	-	milligrams per liter
MSDS	-	Material Safety Data Sheet
NPDES	-	National Pollutant Discharge Elimination System
O & G	-	Oil and Grease
POTW	-	Publicly Owned Treatment Works
PUWWS	-	IDEM=s Pretreatment and Urban Wet Weather Section
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classification
SNC	-	Significant Noncompliance
SIU	-	Significant Industrial User
TSS	-	Total Suspended Solids
USC	-	United States Code
WDP	-	Wastewater Discharge Permit

(Ord. 2000-11B, passed 11-28-00)

' 52.004 DEFINITIONS.

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

ACT or THE ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 *et seq.*

APPLICABLE PRETREATMENT STANDARD. Any pretreatment limit or prohibitive standard (federal, state or local) contained in this chapter and considered to be the most restrictive with which nondomestic users will be required to comply.

APPROVAL AUTHORITY. The Regional Administrator of EPA Region V. IDEM will automatically be designated as the Approval Authority if its pretreatment program is approved by the EPA and EPA delegates its pretreatment program authority to IDEM.

AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

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

(b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

(4) The individuals described in subsections (1) through (3), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Superintendent.

BIOCHEMICAL OXYGEN DEMAND or BOD₅. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20°C, usually expressed as a concentration (for example, mg/l).

BYPASS. The intentional diversion of waste streams from any portion of an industrial user=s treatment facility.

CATEGORICAL PRETREATMENT STANDARD or **CATEGORICAL STANDARD.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

CLEAR WATER FLOW. Groundwater or precipitation related water which enters the sanitary sewer collection system through pipe defects (infiltration) or conduits (inflow).

COLOR. The optical density at the visual wave length of maximum absorption, relative to distilled water. 100% transmittance is equivalent to zero (0.0) optical density.

COMBINED SEWER. Sewer which carries both sanitary and stormwater flow by design.

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

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

COUNCIL. The Town Council of Fortville, Indiana, or any duly authorized official acting on its behalf.

DAILY DISCHARGE. Discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for sampling purposes.

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

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

FATS, OILS AND GREASE. 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.

FLOW PROPORTIONAL SAMPLING or **TIME PROPORTIONAL SAMPLING.** A 24-hour composite sample that consists of at least three grab samples collected over equal time intervals during the period of operator attendance. The grab samples for the composite shall be proportioned to flow. If a user does not utilize an automatic sampler, a flow proportioned composite sample may 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 Atotal 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;

(4) Multiplying the volume of the total composite sample by each individual sample=s percentage to determine the volume of that individual sample that will be included in the total composite sample.

GRAB SAMPLE. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

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

INDIRECT DISCHARGE or DISCHARGE. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDIRECT DISCHARGER. A nondomestic discharger introducing pollutants into the town's wastewater treatment plant, regardless of whether the discharger is within the town's jurisdiction.

INDUSTRIAL USER. An indirect discharger.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

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

(1) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal;

(2) Causes a violation of any requirement of the town=s NPDES permit, including an increase in the magnitude or duration of a violation;

(3) Prevents the use of sewage sludge or its disposal method selected in compliance with the following statutory provisions, regulations, or permits issued thereunder or any more stringent state or local regulations: Section 405 of the Clean Water Act (33 U.S.C. 1345); the Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901), including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); and the rules contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act (42 U.S.C. 6941); the Clean Air Act (42 U.S.C. 7401); and the Toxic Substances Control Act (15 U.S.C. 2601).

MAXIMUM DAILY DISCHARGE LIMITATIONS. Highest allowable daily discharge.

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.

NEW SOURCE.

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

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

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

(c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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

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

(a) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly or installation of facilities or equipment; or

2. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which are necessary for the placement, assembly or installation of new source facilities or equipment; or

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

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.

PASS-THROUGH. A discharge proceeding through the town's wastewater treatment plant 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 town's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

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 (for example, pH, temperature, TSS, turbidity, color, BOD₅, COD₅, toxicity and odor).

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

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 STANDARD OR STANDARDS.

- (1) State pretreatment standards as established in 327 IAC 5-18-8;
- (2) Pretreatment standards for prohibited discharges, as established in 327 IAC 5-18-2; and
- (3) National categorical pretreatment standards incorporated by reference in 327 IAC 5-18-10.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in ' 52.020.

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. APOTW@ also means the town to the extent it has jurisdiction over the indirect discharges to and the discharges from the town's treatment plant.

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

SEWAGE. Human excrement and gray water (household showers, dishwashing operations and the like).

SIGNIFICANT INDUSTRIAL USER (SIU).

(1) Industrial users subject to categorical pretreatment standards under 327 IAC 5-18-10.

(2) An industrial user that:

(a) Discharges an average of 25,000 gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater) to the town's treatment plant;

(b) Contributes a process wastestream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the town's treatment plant; or

(c) Is designated as a significant industrial user by the control authority on the basis that the industrial user has a reasonable potential to:

1. Adversely affect the town's treatment plant operations;

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 the town's NPDES permit.

SIGNIFICANT NONCOMPLIANCE (SNC). For compliance provisions of this chapter, this term is defined as follows:

(1) Violations of wastewater discharge limits:

(a) *Chronic violations.* 66% or more of the measurements exceed the same daily maximum limit or the same average limit in a six month period;

(b) *Technical review criteria (TRC).* 33% or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six month period. There are two groups of TRCs:

1. Group I for conventional pollutants
(BOD₅, COD, TSS, fats, oil and grease) TRC =1.4 (40%);
2. Group II for all other pollutants TRC=1.2 (20%);

(c) Any other violation(s) of an effluent limit (average or daily maximum) that the Superintendent believes has caused, alone or in combination with other discharges, interference (for example, slug loads) or pass through or endangered the health of the sewage treatment personnel or the public;

(d) Any discharge of a pollutant which has caused imminent endangerment to human health/welfare or to the environment and resulted in the POTW=s exercise of its emergency authority to halt or prevent such a discharge.

(2) Violation of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction or attaining final compliance by 90 days or more after the schedule date.

(3) Failure to provide reports for compliance schedules, self-monitoring data or categorical standards (baseline monitoring reports, 90-day compliance reports and periodic reports) within 30 days from due date.

(4) Failure to accurately report noncompliance.

(5) Any other violation or group of violations which the Superintendent considers to be significant.

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.

SLUG DISCHARGE or SLUG LOAD. Any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge that may cause interference to a POTW or any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in ' 52.020.

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

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

SUPERINTENDENT. The person designated by the Town of Fortville who is charged with certain duties and responsibilities by this chapter or a duly authorized representative.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering.

TOWN. The Town of Fortville, Indiana, acting by and through its Town Council.

USER or INDUSTRIAL USER. A source of indirect discharge.

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 POTW.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WASTEWATER DISCHARGE PERMIT. A permit issued by the town to a user of the wastewater utility which establishes specific conditions and requirements.

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

(Ord. 2000-11B, passed 11-28-00; Am. Ord. 2011-11A, passed 11-21-11; Am. Ord. 2015-4A, passed 5-9-15)

' 52.005 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 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 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. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

(Ord. 2000-11B, passed 11-28-00)

' 52.006 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

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

(Ord. 2000-11B, passed 11-28-00)

' 52.007 PRETREATMENT CHARGES AND FEES.

The Superintendent and the Council may adopt reasonable fees for reimbursement of costs of setting up and operating the town=s pretreatment program which may include:

(A) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(B) Fees for the issuance of permits;

(C) Fees for monitoring, inspection and surveillance procedures, including the cost of collection of and analyzing a user=s discharge, the collection and analyzing samples, reviewing monitoring reports submitted by users and conducting site visits;

(D) Fees for reviewing and responding to accidental discharge procedures and construction;

(E) Fees for filing appeals; and

(F) Other fees as the Superintendent or Council may deem necessary to carry out the requirements contained herein. 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.

(Ord. 2000-11B, passed 11-28-00)

GENERAL SEWER USE REQUIREMENTS**' 52.020 PROHIBITED DISCHARGE STANDARDS.**

(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. These general prohibitions apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

(B) *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

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- (1) Pollutants which 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;
- (2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than 200 mg/l daily average. TSS levels in excess of 200 mg/l daily average may be subject to a surcharge per ' 52.021. TSS levels in excess of 200 mg/l daily average shall result in the imposition of a fine per ' 52.130;
- (4) Pollutants, including oxygen-demanding pollutants (BOD and the like), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the POTW. BOD levels in excess of 200 mg/l daily average may be subject to a surcharge per ' 52.021. BOD levels in excess of 400 mg/l daily average shall result in the imposition of a fine per ' 52.130;
- (5) Wastewater having a temperature greater than 140°F (60°C) or that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Ammonia levels in excess of 20 mg/l daily average may be subject to a surcharge per ' 52.021. Ammonia levels in excess of 30 mg/l daily average may result in the imposition of a fine per ' 52.130;
- (7) Fat, oil and grease levels in excess of 100 mg/l daily average may be subject to a surcharge per ' 52.021. Fat, oil and grease levels in excess of 200 mg/l daily average may result in the imposition of a fine per ' 52.130;
- (8) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;
- (9) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW sewers, including in a quantity that may cause acute worker health and safety problems;
- (10)Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with ' 52.038;
- (11)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;

(12)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 town=s NPDES permit (No. IN0020958);

(13)Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable state or federal regulations;

(14)Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the Superintendent;

(15)Sludges, screenings or other residues from the pretreatment of industrial wastes;

(16)Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;

(17)Wastewater causing, alone or in conjunction with other sources, the treatment plant=s effluent to fail a toxicity test;

(18)Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW, including AAS and AES; and

(19)Instantaneous flows and loadings which are in excess of the POTW=s functional and treatment capacities or are likely to cause overflow conditions.

(20)Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.
(Ord. 2000-11B, passed 11-28-00)

' 52.021 ABNORMAL WASTE SURCHARGE.

(A) The costs of treatment for each pound of BOD, suspended solids or grease removed by each treatment works shall be reviewed by the town at the end of each fiscal year. If a discrepancy exists between the actual costs as found by the town and the estimated costs, the town shall increase or decrease the surcharge rates sufficiently to cover only the projected actual costs for the ensuing year. The surcharge rates are contained in the town=s separate rate ordinances.

(B) No reduction in sewerage service charges, fees or taxes will be permitted because of the fact that certain industrial wastes discharged to the public sanitary sewerage system contain less than the surcharge based limitations.
(Ord. 2000-11B, passed 11-28-00)

' 52.022 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Parts 405-471 are hereby incorporated.

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

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
(Ord. 2000-11B, passed 11-28-00)

' 52.023 LOCAL LIMITS.

(A) The following pollutant limitations are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum concentrations based upon a flow proportional sampling or time proportional sampling. Additionally, no person shall discharge wastewater containing in excess of the following maximum concentrations times a multiplier of 1.5 based upon a grab sample. The 1.5 grab sample multiplier does not apply to Hex. Chromium, Cyanide and Phenols in that analytical procedures do not allow for composite techniques to be applied to these parameters. For Hex. Chromium, Cyanide and Phenols, three grab sample results shall be analyzed with results not to exceed the following noted limitations:

- | | |
|----------------|--------------------|
| (1) 30 mg/l: | Ammonia; |
| (2) 0.04 mg/l: | Arsenic (total); |
| (3) 200 mg/l: | BOD ₅ ; |
| (4) 0.20 mg/l: | Cadmium (total); |
| (5) 900 mg/l: | COD ₅ ; |
| (6) 4.0 mg/l: | Total Chromium; |

- (7) 0.6 mg/l: Copper;
- (8) 0.025 mg/l: Cyanide (total);
- (9) 0.113 mg/l: Lead (total);
- (10) 0.0002 mg/l: Mercury (total);
- (11) 0.3 mg/l: Nickel;
- (12) 200 mg/l: Fats, Oils & Grease;
- (13) 0.5 mg/l: Silver;
- (14) 200 mg/l: TSS (Total Suspended Solids);
- (15) 2.0 mg/l: TTO (Total Toxic Organics);
- (16) 2.0 mg/l: Zinc (total);

(B) 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. The Superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(C) Upon the promulgation of the National Categorical Pretreatment Standard (NCPS) for a particular user, the said standard, if more stringent than the limitations imposed under this chapter for sources in that category, shall, when effective, immediately supersede the limitations and conditions imposed under this chapter. The Superintendent shall notify all known affected users of the applicable permitting and reporting requirements under 40 CFR 403.12.
(Ord. 2000-11B, passed 11-28-00)

' 52.024 TOWN=S RIGHT OF REVISION AND MODIFICATIONS.

(A) The town reserves the right to establish, by ordinance or in wastewater discharge permits, different or more stringent standards or requirements on discharges to the POTW.

(B) Any significant modifications the town intends to make will be submitted to PUWWS for approval in accordance with 327 I.A.C. 5-13-4(g) prior to being enacted. Significant modifications include the following:

- (1) A major modification in the town=s administrative procedures;
- (2) A significant reduction in the monitoring procedures;

- (3) A significant change in the financial or revenue limitations contained in this chapter;
- (4) A change in the industrial survey;
- (5) A change in federal or state regulations or requirements;
- (6) An increase in pollutant limits.

(Ord. 2000-11B, passed 11-28-00)

' 52.025 DILUTION.

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

(Ord. 2000-11B, passed 11-28-00)

PRETREATMENT OF WASTEWATER

' 52.035 PRETREATMENT FACILITIES.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in ' 52.021 within the time limitations specified by EPA, the state or the Superintendent, 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 Superintendent for review and shall be acceptable to the 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 town under the provisions of this chapter.

(Ord. 2000-11B, passed 11-28-00)

' 52.036 ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage 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.

(B) The 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. A wastewater discharge permit may be issued solely for flow equalization.

(C) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(D) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand, except that such interceptors shall not be required for residential use. All interception units shall be of the type and capacity approved by the Superintendent and shall be 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) Users which operate vehicular wash facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control solids and preclude the discharge of toxics to the POTW.

(F) Users which operate food preparation facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control the discharge of greases, fats, oils and food solids to the POTW.

(Ord. 2000-11B, passed 11-28-00)

' 52.037 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) At least once every two years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval and implement such a plan. Alternatively, the Superintendent may develop such a plan for any user and require the user to comply with the plan.

(B) An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by ' 52.090; and

(4) 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 and measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

(Ord. 2000-11B, passed 11-28-00)

' 52.038 HAULED WASTEWATER.

(A) Wastewater haulers are prohibited except under the express and specific written permission of the Superintendent.

(B) Industrial or septic waste haulers who receive the express and specific written permission of the Superintendent to introduce industrial or septic waste into the POTW must comply with the following conditions:

(1) Industrial or septic waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge;

(2) Industrial or septic waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents and whether any wastes are RCRA hazardous wastes.

(Ord. 2000-11B, passed 11-28-00)

WASTEWATER DISCHARGE PERMIT APPLICATION

' 52.050 WASTEWATER ANALYSIS.

When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within 14 days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. 2000-11B, passed 11-28-00)

' 52.051 WASTEWATER DISCHARGE PERMIT REQUIREMENT.

(A) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to ' 52.052 may continue to discharge for the time period specified therein.

(B) The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.

(C) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in " 52.125 *et seq.* Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(Ord. 2000-11B, passed 11-28-00)

' 52.052 WASTEWATER DISCHARGE PERMITTING.

(A) *Existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future shall, within 30 days after said date, apply to the Superintendent for a wastewater discharge permit in accordance with ' 52.053 and shall not cause or allow discharges to the POTW to continue after 30 days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the Superintendent.

(B) *New connections.* Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with ' 52.053, must be filed at least 30 days prior to the date upon which any discharge will begin or recommence.

(Ord. 2000-11B, passed 11-28-00)

' 52.053 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS.

(A) All users required to obtain a wastewater discharge permit must submit a permit application. The Superintendent may require all users to submit as part of an application the following information:

(1) All information required by ' 52.085(B);

(2) Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or

intentionally be, discharged to the POTW and MSDS sheets for all chemicals used which are subject to potential discharge;

(3) Number and type of employees, hours of operation and proposed or actual hours of operation;

(4) Each product produced by type, amount, process or processes and rate of production;

(5) Type and amount of raw materials processed (average and maximum per day);

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation and all points of discharge;

(7) Time and duration of discharges; and

(8) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. 2000-11B, passed 11-28-00)

' 52.054 APPLICATION SIGNATORIES AND CERTIFICATION.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

(Ord. 2000-11B, passed 11-28-00)

' 52.055 WASTEWATER DISCHARGE PERMIT DECISIONS.

The Superintendent will evaluate the data furnished by the user and may require additional information. Any new SIU industry proposing to discharge process wastewater must acquire an IWP before it can commence discharging into the POTW. Within 15 days of receipt of a complete wastewater

discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit. (Ord. 2000-11B, passed 11-28-00)

WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

' 52.065 PERMIT DURATION.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit, unless administratively extended by the Superintendent in writing. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire. (Ord. 2000-11B, passed 11-28-00)

' 52.066 PERMIT CONTENTS.

(A) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the waterbody receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the POTW and ensure the town is in compliance with its NPDES permit.

(B) Wastewater discharge permits must contain:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval of the Superintendent in accordance with ' 52.069 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards and as identified in ' 52.023;

(4) Self monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law; and

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

(C) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

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

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

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

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

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for the installation and maintenance of inspection and sampling facilities and equipment;

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

(8) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter and state and federal laws, rules and regulations.
(Ord. 2000-11B, passed 11-28-00)

' 52.067 PERMIT APPEALS.

(A) The Superintendent shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit within 15 days of notice of its issuance.

(1) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for each objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(B) The effectiveness of the wastewater discharge permit shall not be stayed pending the request for reconsideration.

(C) If the Superintendent fails to act within 30 days of the mailing of the request for reconsideration, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(D) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Hancock County Circuit Court within 30 days of the final administrative wastewater discharge permit decision.

(Ord. 2000-11B, passed 11-28-00)

' 52.068 PERMIT MODIFICATION.

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

(A) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

(B) To address significant alterations or additions to the user=s operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

(C) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(D) Information indicating that the permitted discharge poses a threat to the town=s POTW, town personnel or the receiving waters;

(E) Violation of any terms or conditions of the wastewater discharge permit;

(F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(H) To correct typographical or other errors in the wastewater discharge permit; or

(I) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(Ord. 2000-11B, passed 11-28-00)

' 52.069 PERMIT TRANSFER.

(A) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(B) Failure to provide 30 days advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(Ord. 2000-11B, passed 11-28-00)

' 52.070 PERMIT REVOCATION.

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

(1) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Superintendent of changed conditions pursuant to ' 52.089;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Superintendent or his or her agent timely access to the facility premises and records as would be reasonable under the circumstances;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide 30 days advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this chapter.

(B) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord. 2000-11B, passed 11-28-00)

' 52.071 PERMIT REISSUANCE.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with ' 52.053, a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. 2000-11B, passed 11-28-00)

' 52.072 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

(A) If another municipality or sewer district contributes wastewater to the POTW, the Superintendent shall enter into an intermunicipal or interdistrict agreement with the contributing entity.

(B) Prior to entering into an agreement required by division (A) of this section, the Superintendent shall request the following information from the contributing entity:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing entity;

(2) An inventory of all users located within the contributing entity that are discharging to the POTW; and

(3) Such other information as the Superintendent may deem necessary.

(C) An intermunicipal agreement, as required by division (A) of this section, shall contain the following conditions:

(1) A requirement for the contributing entity to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits which are at least as stringent as those set out in ' 52.023. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the town=s ordinance or local limits;

(2) A requirement for the contributing entity to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing municipality and the Superintendent;

(4) A requirement for the contributing entity to provide the Superintendent with access to all information that the contributing entity obtains as part of its pretreatment activities;

(5) Limits on the nature, quality and volume of the contributing entity=s wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing entity=s discharge;

(7) A provision ensuring the Superintendent access to the facilities of users located within the contributing entity=s jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Superintendent; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal or interdistrict agreement.

(Ord. 2000-11B, passed 11-28-00)

REPORTING REQUIREMENTS

' 52.085 BASELINE MONITORING REPORTS.

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

(B) Users described above shall submit the information set forth below:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and the owner.

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of operations.* A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

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

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in ' 52.094.

(c) Sampling must be performed in accordance with procedures set out in ' 52.095.

(d) MSDS sheets for all chemicals used which are subject to potential discharge.

(6) *Certification.* A statement, reviewed by the user=s authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in ' 52.086.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with ' 52.054.

(Ord. 2000-11B, passed 11-28-00)

' 52.086 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by ' 52.085(B)(7):

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

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

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

(D) In no event shall more than nine months elapse between such progress reports to the Superintendent.

(Ord. 2000-11B, passed 11-28-00)

' 52.087 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in ' 52.085(B)(4)-(6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with ' 52.054.

(Ord. 2000-11B, passed 11-28-00)

' 52.088 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the

measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with ' 52.054.

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

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in ' 52.095, the results of this monitoring shall be included in the report.

(Ord. 2000-11B, passed 11-28-00)

' 52.089 REPORTS OF CHANGED CONDITIONS.

Each user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

(A) The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under ' 52.053.

(B) The Superintendent may issue a wastewater discharge permit under ' 52.055 or modify an existing wastewater discharge permit under ' 52.068 in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 10% or greater and the discharge of any previously unreported pollutants.

(Ord. 2000-11B, passed 11-28-00)

' 52.090 REPORTS OF POTENTIAL PROBLEMS; POTW REPORTS TO IDEM; INVESTIGATIONS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the 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 days following such discharge, the user shall, unless waived in writing by the 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 may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this chapter.

(C) A notice shall be permanently posted on the user=s bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) of this section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(D) The Superintendent will document and notify IDEM, Office of Water Management=s Compliance Evaluation, of any major violations of any discharge permit.

(E) The 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.

(Ord. 2000-11B, passed 11-28-00)

' 52.091 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require.

(Ord. 2000-11B, passed 11-28-00)

' 52.092 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation of this chapter, a wastewater discharge permit, federal, state or local law, the user must notify the Superintendent within two hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user=s facility at least once a month or if the Superintendent samples between the user=s initial sampling and when the user receives the results of this sampling.

(Ord. 2000-11B, passed 11-28-00)

' 52.093 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) Any user who commences the discharge of hazardous waste shall notify the Superintendent, the EPA Region V Waste Management Division Director and the IDEM Office of Solid and Hazardous Waste, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar

month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under ' 52.089. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self- monitoring requirements of " 52.085, 52.087 and 52.088.

(B) Dischargers are exempt from the requirements of division (A) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

(C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Region V Waste Management Division Director and IDEM of the discharge of such substance within 90 days of the effective date of such regulations.

(D) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder or any applicable federal or state law.
(Ord. 2000-11B, passed 11-28-00)

' 52.094 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(Ord. 2000-11B, passed 11-28-00)

' 52.095 SAMPLE COLLECTION.

(A) Except as indicated in division (B) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time, proportional sampling or a minimum of three grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for O&G, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

(Ord. 2000-11B, passed 11-28-00)

' 52.096 TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not deposited, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. 2000-11B, passed 11-28-00)

' 52.097 RECORDKEEPING.

(A) Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the town or where the user has been specifically notified of a longer retention period by the Superintendent.

(B) The town will retain pretreatment reports from industrial users for a minimum of three years. These records will be available for IDEM or EPA to copy in accordance with 327 I.A.C. 5-11-7(d). This period will be extended during the course of any unresolved litigation, including appeals periods, regarding the discharge of pollutants by the industrial user or the operation of the hybrid pretreatment program or upon the request of IDEM or EPA.

(Ord. 2000-11B, passed 11-28-00)

COMPLIANCE MONITORING

' 52.110 INDUSTRIAL MONITORING.

(A) The town will inspect, sample and analyze industrial discharges in the following manner:

(1) The sample types will be the same type as required in the IWP issued by the controlling legal authority;

(2) The samples will be collected at the sample location specified in the IWP issued by the controlling legal authority;

(3) A sampling and inspection program shall be inspected for, at a minimum, all IWP facilities. IWP facilities will be inspected at least annually;

(4) Samples will be collected at least quarterly;

(5) The analytical results of the samples will be submitted to the town and IDEM PUWWS by the twenty-eighth day of the month following the month in which the samples were taken;

(6) The town will keep a record of each industrial inspection it performs. A copy of each inspection report will be sent to the PUWWS within 15 days of its completion.

(B) The town will immediately sample and analyze the POTW influent and effluent for suspected pollutant(s) when the POTW operation is upset. The town will immediately contact PUWWS and the Compliance Evaluation Section by telephone at the time of the occurrence. The results of each analysis conducted as a result of an upset will be submitted to PUWWS.

(Ord. 2000-11B, passed 11-28-00)

' 52.111 INDUSTRIAL SURVEY.

(A) The Superintendent will maintain an industrial survey that contains information about each industrial user that discharges into the POTW.

(B) Information concerning any industrial user commencing or ceasing discharge shall be updated on the industrial survey immediately. The Superintendent will notify the PUWWS of any new industrial user commencing discharge into the POTW within five days.

(Ord. 2000-11B, passed 11-28-00)

' 52.112 RIGHT OF ENTRY; INSPECTION AND SAMPLING.

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

(A) 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 Superintendent or his or her agent will be permitted to enter without delay for the purposes of performing specific responsibilities.

(B) The Superintendent or his or her agent 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.

(C) The Superintendent may require the user to install monitoring equipment as necessary. The facility=s sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually, and more often if appropriate for the equipment, to ensure their accuracy.

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

(E) Unreasonable delays under the circumstances in allowing the Superintendent or his or her agent access to the user=s premises shall be a violation of this chapter.
(Ord. 2000-11B, passed 11-28-00)

' 52.113 SEARCH WARRANTS.

If the Superintendent has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the Hancock County Circuit Court in Greenfield, Indiana.

(Ord. 2000-11B, passed 11-28-00)

ADMINISTRATION AND ENFORCEMENT**' 52.125 NOTIFICATION OF VIOLATIONS.**

When the 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 Superintendent may serve upon that user a written notice of violation. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Superintendent or the Council to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 2000-11B, passed 11-28-00)

' 52.126 AGREED ORDERS.

The Council may enter into agreed orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. The documents shall have the same force and effect as the administrative orders issued pursuant to " 52.128 and 52.129 and shall be judicially enforceable.

(Ord. 2000-11B, passed 11-28-00)

' 52.127 SHOW CAUSE HEARING.

The Superintendent may order a user which 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 to appear before the Council and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 15 days prior to the hearing. The notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

' 52.128 COMPLIANCE ORDERS.

When the 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 Superintendent may issue an order to the user responsible for the discharge directing

that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. (Ord. 2000-11B, passed 11-28-00)

' 52.129 CEASE AND DESIST ORDERS.

(A) When the 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, 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; 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) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

' 52.130 ADMINISTRATIVE FINES.

(A) When the Superintendent or the Council 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 Superintendent or the Council may fine such user in an amount not to exceed \$2,500 as provided by I.C. 36-1-3-8. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(B) When the Superintendent or the Council finds that a user has falsified any information provided to the Superintendent, the town, IDEM or the EPA, the Superintendent or the Council may fine such user in an amount not to exceed \$2,500 as provided by I.C. 36-1-3-8. Such fines shall be assessed on a per violation, per day basis.

(C) Unpaid charges, fines and penalties shall, after 60 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 1.8% per month. A lien against the user=s property may be sought for unpaid charges, fines and penalties.

(D) Users desiring to dispute such fines must file a written request with the Superintendent and the Council requesting the reconsideration of the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the Council 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 Superintendent or the Council may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(E) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

' 52.131 EMERGENCY SUSPENSIONS.

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

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user=s failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in ' 52.132 are initiated against the user.

(2) 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 under " 52.127 and 52.132.

(B) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. 2000-11B, passed 11-28-00)

' 52.132 TERMINATION OF DISCHARGE.

(A) In addition to the provisions in ' 52.070, 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 " 52.020 *et seq.*

(B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. 2000-11B, passed 11-28-00)

' 52.133 PERFORMANCE BONDS.

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the town, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance. (Ord. 2000-11B, passed 11-28-00)

' 52.134 LIABILITY INSURANCE.

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge. (Ord. 2000-11B, passed 11-28-00)

' 52.135 WATER SUPPLY SEVERANCE.

Whenever 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 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 comply with the foregoing.

(Ord. 2000-11B, passed 11-28-00)

' 52.136 PUBLIC NUISANCES.

A violation of any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement is declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of this chapter governing such nuisances, including reimbursing the town for any costs incurred in removing, abating or remedying the nuisance.

(Ord. 2000-11B, passed 11-28-00)

' 52.137 INFORMANT REWARDS.

The Superintendent may pay up to \$250 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty or an administrative fine levied against the user, the Superintendent may disperse up to 10% of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$250.

(Ord. 2000-11B, passed 11-28-00)

' 52.138 CONTRACTOR LISTING.

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the town. Existing contracts for the sale of goods or services to the town held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Council.

(Ord. 2000-11B, passed 11-28-00)

' 52.139 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(A) *Upset.*

(1) 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.

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

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

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

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

(c) The user provided the Superintendent with a verbal notification of the upset within two hours of becoming aware of the upset; and

(d) The user submitted the following information to the Superintendent within 24 hours of becoming aware of the upset:

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

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

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

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

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

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

(B) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in ' 52.020(A) or the specific prohibitions in ' 52.020(B)(3) through (16) 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:

(1) 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

(2) 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 (No. IN0020958), and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) *Bypass.*

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

BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

SEVERE PROPERTY DAMAGE. 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.

(2) 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 subsections (3) and (4) of this section.

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

(b) A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within two hours from the time it becomes aware of the bypass. A written submission also shall be provided to the Superintendent within five 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 Superintendent may waive the written report on a case-by-case basis if the oral report has been received within two hours.

(4) (a) Bypass is prohibited, and the 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 no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment

downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under subsection (3) of this section.

(b) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in subsection (4)(a) of this section.

(Ord. 2000-11B, passed 11-28-00)

' 52.140 PUBLIC NOTICING OF SNC DISCHARGES.

The Superintendent shall, on a yearly basis, publish a listing of individual SIUs found to be in SNC during the previous 12 month period. The notice shall be placed in the legal notice section of the newspaper of largest circulation within the Town of Fortville. This listing shall include the name of the SIU and the basis for SNC determination.

(Ord. 2000-11B, passed 11-28-00)

WASTEWATER PRETREATMENT PROGRAM ENFORCEMENT RESPONSE PLAN

' 52.150 INTRODUCTION.

(A) In accordance with the Code of Federal Regulations (CFR) Section 403.8 f(5) and Part III.C.6. of the National Pollutant Discharge Elimination System (NPDES) permit, the Town of Fortville is required to develop and implement an Enforcement Response Plan (ERP) to be used in conjunction with its industrial pretreatment program. The ERP will contain detailed procedures indicating how the Publicly Owned Treatment Works (POTW) will investigate and respond to instances of industrial user noncompliance.

(B) The ERP is a protocol for responding to industrial pretreatment violations consistently and systematically. It also provides a means whereby industries are notified as to how the town will respond to pretreatment violations. At a minimum, the ERP will:

(1) Describe how the POTW will investigate instances of noncompliance; and

(2) Describe the types of escalating enforcement actions the POTW will take in response to all anticipated types of industrial user violations; and

(3) Identify (by title) the officials responsible for each type of action; and

(4) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards as detailed in Chapter 52 of the Fortville Town Ordinances.

(C) This ERP is a guidance or policy document to be coordinated with the existing pretreatment program procedures as outlined in Chapter 52 of the Town of Fortville Ordinances.
(Ord. 2012-2B, passed 3-5-12)

' **52.151 ADMINISTRATION AND JURISDICTION.**

All entities that discharge non-domestic wastewater to the POTW are subject to the provisions of this ERP. The town consistently administers and implements all elements of the ERP. The ERP does not preclude the town from taking any, all, or any combination of action against a noncompliant industrial user (IU).
(Ord. 2012-2B, passed 3-5-12)

' **52.152 ABBREVIATIONS.**

- (A) *AO*. Administrative order.
- (B) *EPA*. Environmental Protection Agency.
- (C) *ERG*. Enforcement Response Guide.
- (D) *ERP*. Enforcement Response Plan.
- (E) *IDEM*. Indiana Department of Environmental Management.
- (F) *IU*. Industrial user.
- (G) *IPC*. Industrial Pretreatment Coordinator.
- (H) *SUO*. Sewer Use Ordinance.
- (I) *NOV*. Notice of violation.
- (J) *POTW*. Publicly Owned Treatment Works.

(Ord. 2012-2B, passed 3-5-12)

' **52.153 PERSONNEL RESPONSIBILITIES.**

(A) *Superintendent*. The Superintendent is responsible for the day to day implementation and enforcement of the industrial pretreatment program. Potential enforcement responses earned out by the IPC are as follows:

- (1) Informal notices (verbal or written);

- (2) Notices of violation;
- (3) Referrals to the state or EPA for criminal action.

(B) *Town Manager*. The Town Manager has the responsibility to monitor the IPC=s actions and to initiate these additional enforcement actions at the recommendation of the IPC:

- (1) Administrative orders;
- (2) Compliance schedule;
- (3) Show cause hearings;
- (4) Termination of service;
- (5) Administrative fines;
- (6) Cost recovery;
- (7) Referrals to the city attorney for judicial action;
- (8) Referrals to the state or EPA for criminal action.

(C) *Attorney*. The Town Attorney will provide legal consultation as requested by the Superintendent or Town Manager on compliance schedules, administrative fines, administrative orders and cost recovery and will take the lead on all referrals for judicial action and POTW initiated criminal investigations.
(Ord. 2012-2B, passed 3-5-12)

' 52.154 DESCRIPTION OF ENFORCEMENT ACTIONS.

Following are the types of enforcement action that may be undertaken by the POTW:

(A) *Informal notice*. An informal notice may be a documented phone call, written warning, or a meeting notifying the IU of minor incidences that have occurred and that need to be corrected. Repeat performance of the same incidence or escalation of the incidence will result in increased enforcement action.

(B) *Notice of violation (NOV)*. An NOV is the initial formal enforcement action for a violation. A certified letter will notify the IU signatory authority of the violation and will require the following:

- (1) Written response within 30 days of receiving the NOV.
- (2) An explanation of the violation and a plan to correct and prevent future occurrences. Must include specific action to be taken.

- (3) Increased sampling of the parameter in violation within 30 days, if applicable.

(C) *Administrative order.* An administrative order is notification to the IU to undertake or to cease specified activities by a specified deadline. It is the first formal response to significant noncompliance (unless factors necessitate escalated enforcement actions). It may contain a compliance schedule, administrative fines, termination of service and show cause orders. In addition, the NOV will specify the name of the parties involved, statement of the facts, the requirement to ensure compliance and the enforcement action associated with any future non-compliance.

(D) *Compliance order and schedule.* A compliance order is an order by the Superintendent to the IU responsible for the discharge to come into compliance within a specified time. The compliance schedule is a formal time and management schedule that will be included in an enforcement order and that has been established for the noncompliant IU to achieve compliance. It is established for existing IUs to meet the categorical pretreatment standards and local standards. The compliance schedule will contain increments of progress in the form of dates for the commencement and completion of major events that will lead to compliance. All compliance schedules shall contain the following:

- (1) Monitoring requirements along with the location for monitoring;
- (2) A description of how the data will be used for evaluating compliance;
- (3) Enforcement action that will be associated with non-compliance;
- (4) Closure date after which the IU will be considered either noncompliant with the established compliance schedule or evaluated for compliance.

(E) *Show cause hearing.* A show cause hearing is when the IU and the POTW meet to discuss the cause and effect of the violation, as well as the enforcement action the IU will be subjected to by the town. At this time the IU may present its case as to why the violation occurred and why further enforcement should not be applied. Corrective actions to be undertaken by the IU can also be a part of this meeting. Further explanation is provided in Chapter 52 of the Fortville Town Ordinances.

(F) *Termination of discharge.* Termination of discharge is the revocation of an IU=s privilege to discharge non-domestic wastewater into the sewer system. Termination of discharge is used when the discharge from an industrial user presents imminent endangerment to the health or welfare of persons or the environment; or threatens to interfere with the POTW=s operations; or as an escalating enforcement action to a significant violation when a noncompliant IU fails to respond adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the IU=s connection to the collection system, issuance of an AO (agreed order; cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the U=s discharge permit or a court ruling.

(G) *Emergency suspension.* Suspension of discharge may be immediately issued after formal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to property or the health or welfare of persons or the environment, or that threatens to interfere with the operation of the POTW.

(H) *Administrative fines.* An administrative fine is a punitive monetary charge that is assessed by the town rather than a court. Penalties are detailed and authorized in Chapter 52 of the Fortville Town Ordinances. The purpose of a fine is to recover the costs associated with noncompliance and to deter future violations. When assessing an administrative fine the following factors will be considered:

- (1) Type and severity of the violation;
- (2) Number of violations cited;
- (3) Duration of noncompliance;
- (4) Impact of the violation on the receiving stream, sludge quality and POTW operation;
- (5) Whether or not the violation threatened public health;
- (6) The economic benefit or savings the IU user gained from the noncompliance;
- (7) Compliance history of the IU; and
- (8) Whether or not the IU is making a good faith effort to comply.

(I) *Cost recovery.* In addition to administrative fines imposed by the town, the IU shall be responsible for paying at a minimum, but not limited to, the following costs that may be incurred by the town for the IU's failure to comply:

- (1) Cost of mileage and labor incurred in detecting and correcting the violation;
- (2) Laboratory analysis costs associated with detecting and correcting the violation;
- (3) Additional treatment costs caused by the violation or associated with detecting and correcting the violation;
- (4) Costs of any additional equipment acquired or expended by the town for detecting or correcting the violation;
- (5) Repair and/or replacement of any part of the sewerage system damaged by the violation;
- (6) Any liability, damages, fines or penalties incurred by the town as a result of the violation;
- (7) Any and all expenses of outside professionals to include, but not be limited to, engineers, scientists and/or legal counsel;
- (8) Other costs associated with the detection and correction of the violations.

(J) *Judicial action.* Judicial action will be taken when it is deemed necessary to force the IU to correct the violation and comply with the permit. Judicial action may consist of civil prosecution,

criminal prosecution, or an action for injunction at the discretion of the town and its counsel. As an alternative to judicial action, the town and IU may agree to a voluntary zero discharge of industrial waste by the IU pending correction of the violation.

(K) *Referral to EPA or the state.* Violations that may warrant criminal prosecution will be referred to the state or EPA for further action. Circumstances that trigger EPA or state referrals will include, but not be limited to, evidence of willfulness, evidence of negligence and/or bad faith shown by the IU. (Ord. 2012-2B, passed 3-5-12)

' 52.155 ENFORCEMENT RESPONSE GUIDE.

(A) This Enforcement Response Guide (ERG) designates several enforcement options for each type or pattern of noncompliance that will ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response to violations are as follows:

- (1) Good faith of the IU;
- (2) Compliance history of the IU;
- (3) Previous success of any prior enforcement actions against the IU;
- (4) The violation=s effect on the environment and/or public health;
- (5) The violation=s effect on the POTW.

(B) *Violations resulting in significant noncompliance.* Any violation that results in significant noncompliance (SNC) will be addressed through formal enforcement action. The minimum level of enforcement used to address an SNC is an administrative order (AO). The following categories of SNC of IUs shall be subject to enforcement actions initiated by the Town of Fortville.

- (1) Violations of wastewater discharge limits.

(a) **CHRONIC VIOLATIONS** of wastewater discharge limits, defined as those in which 66% or more of all of the measurements taken during a six-month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter.

(b) 1. **TECHNICAL REVIEW CRITERIA** (TRC) violations, defined as those in which 33% or more of ail of the measurements for each pollutant parameter taken during a six-month period exceed the same daily maximum limit or the same average limit by more than the applicable TRC.

2. There are two groups of TRCs. Group I TRC equals 1.4 or 40% for BOD5, COD, total suspended solids (TSS), fats, oil and grease. Group II TRC equals 1.2 or 20% for all other pollutants except pH.

(c) Any other violation of a pretreatment effluent limit (average or daily maximum) that the Superintendent determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of town personnel or the general public.

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or the environment or has resulted in the town=s exercise of its emergency authority under 327 IAC 5-19-3(1)(G) to halt or prevent such a discharge.

(2) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or administrative order for starting construction, completing construction or attaining final compliance.

(3) Failure to provide, within 30 days after the due date, required reports such as:

(a) Baseline monitoring reports;

(b) Ninety-day compliance reports;

(c) Self-monitoring data, reports or categorical standards;

(d) Reports on compliance with required compliance schedules.

(4) Failure to accurately report noncompliance.

(5) Any other violation or group of violations that the Superintendent determines as significant or that will adversely affect the operation or implementation of the approved POTW pretreatment program.

(C) *Escalating enforcement response.* Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same type of violation occurs on consecutive reporting periods, the violation occurs seasonally or any other pattern of noncompliance is shown.

(D) *Violations falling under more than one category.* Alleged violations or violations that fall under more than one category in the ERP will be addressed using the most severe enforcement response. (Ord. 2012-2B, passed 3-5-12)

' 52.156 DEFINITIONS OF VIOLATIONS.

(A) *MINOR SAMPLING, MONITORING, OR REPORTING DEFICIENCIES.*

(1) Reports/correspondence submitted up to ten business days late;

(2) Incomplete reports and/or chain-of-custody first offense;

- (3) Transcription error;
- (4) Improper sampling or analytical procedure first offense;
- (5) Late notification of violation to POTW first offense;
- (6) Failure to report any operational changes that affect the discharge flow rate but does not impact the permit first offense;
- (7) Any other violation categorized as minor sampling, monitoring or reporting deficiencies.

(B) MAJOR SAMPLING, MONITORING, OR REPORTING DEFICIENCIES.

- (1) Reports/correspondence late by 11 to 30 business days;
- (2) Sampling point not accessible to the POTW;
- (3) Reports not certified;
- (4) Failure to report any operational changes that affect the discharge flow rate and impacts the permit;
- (5) Incomplete report or chain-of-custody information; repeat offense;
- (6) Failure to submit all the information that leads to the determination of a category of an IU;
- (7) Failure to use appropriate analytical methods (40 CFR 136);
- (8) Failure to sample for a required parameter;
- (9) Failure to report slug load discharge, illegal discharges or spills with no damage to the POTW;
- (10) Unacceptable explanation for a violation;
- (11) Improper sampling or analytical procedure; repeat offense;
- (12) Any other violation categorized as a major sampling, monitoring or reporting deficiency by the POTW.

(C) CRITICAL SAMPLING, MONITORING, OR REPORTING DEFICIENCIES.

- (1) Reports greater than 31 days late (SNC);
- (2) Complete failure to sample, monitor or report per the requirements of the IU=s permit;

- (3) Any deficiency of sampling, monitoring or reporting procedure which places IU in SNC;
- (4) Failure to respond to a show cause or administrative order;
- (5) Illegal or unauthorized discharge that results in damage to the POTW;
- (6) Any violation of sampling, monitoring or reporting procedures which directly or indirectly contributes to or is responsible for violation of the POTW=s NPDES permit;
- (7) Any other violation categorized as a critical sampling, monitoring or reporting deficiency by the POTW.

(D) **UNAUTHORIZED DISCHARGE.** Discharge of any pollutant(s) from a location, process, source or categorical operation that has not been previously approved, identified or permitted by the POTW.

(E) **DAMAGES TO THE POTW.** Occurs when the discharge from an IU causes:

- (1) Harm to the collection system, its accessories and wastewater treatment plant;
 - (2) Interference with the biological operations of the plant;
 - (3) Deterioration of sludge quality;
 - (4) The POTW to violate its NPDES permit.
- (Ord. 2012-2B, passed 3-5-12)

' 52.157 TIMEFRAMES FOR ENFORCEMENT RESPONSES.

(A) All violations will be identified and documented within five days of receiving the compliance information.

(B) An initial enforcement response (informal or formal) will occur within 15 days of identifying a violation.

(C) Follow up actions for continuing or recurring violations will be taken within 60 days of the initial enforcement response.

(D) Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate response such as halting the discharge or terminating service.

(E) All violations meeting the criteria for significant noncompliance will be addressed through formal enforcement action within 30 days of the identification of a SNC.
(Ord. 2012-2B, passed 3-5-12)

' 52.158 ENFORCEMENT RESPONSE PROGRAM TABLES.

TABLE I
DISCHARGE PARAMETER VIOLATION

<i>Violation</i>	<i>Nature or Frequency of Violation</i>	<i>Status</i>	<i>Range of Responses</i>
Exceedance of discharge limits	Isolated, non-significant.	Non-compliance	NOV
	Frequent, repeated offense, non-significant (exceeding one/quarter or four/calendar year).	Non-compliance	NOV with increased sampling frequency
	Exceedance of TRC value by a frequency of 33% or more in six months and/or exceedances of permit limit by a frequency of 66% or more in six-month span or as stated in 40 CFR 403.	Significant non-compliance (SNC)	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/terminate services
	Any instance with POTW damage or direct cause for violation of POTW=s NPDES permit - SNC.	Significant non-compliance	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/terminate services
Waste stream dilution in lieu of treatment as described in the SUO for industrial waste discharge	Isolated, non-significant.	Non-compliance	I. Informal notice II. NOV
	Frequent, repeat offense, non-significant (exceeding one per quarter or four per calendar year).	Non-compliance	I. NOV II. AO
Slug load discharge	Isolated with no damage to POTW.	Non-compliance	NOV
	Frequent; more than one per calendar year with no damage to POTW.	Significant non-compliance	AO and upgrading slug discharge control plan
	Any instance with POTW damage or direct cause for violation of POTW=s NPDES permit; SNC.	Significant non-compliance	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/terminate services

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<i>Violation</i>	<i>Nature or Frequency of Violation</i>	<i>Status</i>	<i>Range of Responses</i>
Unauthorized/non-permitted discharge	Any instance with no damage to POTW.	Non-compliance	NOV
	Any instance with POTW damage or direct cause for violation of POTW=s NPDES permit - SNC.	Significant non-compliance	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/terminate services
Prohibited or illegal RCRA hazardous waste discharge	Any instance.	Significant non-compliance	I. AO II. Administrative fine III. Cost recovery IV. Judicial action/terminate services

TABLE II
SAMPLING, MONITORING AND REPORTING VIOLATIONS

<i>Violation</i>	<i>Nature or Frequency of Violation</i>	<i>Status</i>	<i>Range of Responses</i>
Minor sampling, monitoring or reporting deficiencies	Isolated or infrequent.	Non-compliance	I. Informal notice II. NOV
	Frequent, repeat offense, non-significant (exceeding one per quarter or four per calendar year).	Non-compliance	NOV
Major sampling, monitoring, or reporting deficiencies	Isolated or infrequent.	Non-compliance	I. NOV II. NOV with increased sampling frequency
	Frequent, repeat offense (exceeding one per quarter or four per calendar year).	Non-compliance	I. NOV with increased sampling frequency II. AO
Critical sampling, monitoring, or reporting deficiencies	Any instance.	Significant non-compliance	I. AO II. Administrative fine III. Judicial action IV. terminate services
Falsification of sampling, monitoring, or reporting requirements	Any instance.	Significant non-compliance	I. Administrative fine II. Judicial action/criminal prosecution III. Terminate services

<i>Violation</i>	<i>Nature or Frequency of Violation</i>	<i>Status</i>	<i>Range of Responses</i>
Failure to report changed discharge	Any instance with no impact on the permit.	Non-compliance	Informal notice
	Any instance with impact on the permit.	Non-compliance	NOV with show cause
Failure to obtain permit before discharge	Any instance.	Non-compliance	NOV with show cause
Failure to inform POTW of the ownership change	Any instance.	Non-compliance	NOV
Failure to install monitoring equipment including a monitoring manhole as required	Any instance.	Non-compliance	NOV with the requirement to immediately initiate the installation of equipment
Tampering with monitoring equipment	Any instance.	Significant non-compliance	I. AO with fines II. Judicial action

TABLE III
OTHER TYPES OF VIOLATIONS

<i>Violation</i>	<i>Nature or Frequency of Violation</i>	<i>Status</i>	<i>Range of Responses</i>
Entry denial	Entry denied or consent withdrawn. Copies of records denied.	Non-compliance	Obtain search warrant and return to IU.
Inadequate record keeping	Incomplete or missing records.	Non-compliance	I. Informal notice II. NOV
	Repeat offense.	Non-compliance	I. NOV II. AO with fine
Failure to properly operate and maintain pretreatment facility	Any instance.	Non-compliance	I. Informal notice II. NOV III. AO and immediate corrective action

TABLE IV
COMPLIANCE SCHEDULE VIOLATION

<i>Violation</i>	<i>Nature or Frequency of Violation</i>	<i>Status</i>	<i>Range of Responses</i>
Missed milestone date	Will not affect other milestone dates on compliance schedule. No valid cause for missing the deadline.	Non-compliance	I. Informal notice II. NOV
	Will disrupt compliance schedule timetableBviolation for valid cause.	Non-compliance	I. NOV with show cause hearing II. AO to re-establish timetable
	Will disrupt compliance schedule timetableBviolation not for valid cause.	Significant non-compliance	I. AO with fines II. Re-establish the compliance schedule
Missed final date of achieving compliance for which the schedule was establishedBthe parameter was in violation at least once	Violation after milestone final date due to strike, act of God, national crises, etc.	Non-compliance	I. Informal response II. AO to re-establish timetable
	Sampling or monitoring within 30 days of milestone final date yielded more than one violation for the compliance schedule parameter.	Significant non-compliance	NOV with show cause
	Sampling or monitoring after 30 days and before the closure date yielded more than one violation for the compliance schedule parameter.	Significant non-compliance	I. AO with fines II. Show cause III. Administrative fine/cost recovery IV. Judicial action/zero discharge V. Terminate services
Failure to meet reporting requirements	Did not submit report but did complete milestone.	Non-compliance	NOV
	Did not submit report, did not complete milestone.	Significant non-compliance	AO with fine
Reporting false information	Any instance.	Significant non-compliance	I. Terminate services II. Judicial action/criminal prosecution

(Ord. 2012-2B, passed 3-5-12)

' 52.999 PENALTY.

(A) *Injunctive relief.* When the 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 Superintendent may petition the Hancock County Circuit Court 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 the activities of the user. The Superintendent also may 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) *Civil penalties.*

(1) A user who 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 shall be liable to the town for a maximum civil penalty of \$2,500 per violation, per day. In the case of a monthly or other long-term average discharge limit violation, penalties shall accrue for each day during the period of the violation.

(2) The Superintendent may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the town.

(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 of the violation, any economic benefit gained through the user's violation, corrective actions taken 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 bar against, or a prerequisite for, taking any other action against a user.

(C) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The Superintendent and the Council may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations generally will be in accordance with the town's enforcement response plan. However, the Superintendent and the Council may take other action against any user when the circumstances warrant. Further, the Superintendent and the Council are empowered to take more than one enforcement action against any noncompliant user.

(Ord. 2000-11B, passed 11-28-00)

Section

53.01 Adopted by reference **CHAPTER 53: STORM WATER MANAGEMENT**

' 53.01 ADOPTED BY REFERENCE.

The Town of Fortville hereby adopts the stormwater management provisions as if fully set out herein.
(Ord. 2006-8A, passed 4-27-04)

Section

- 54.01 Definitions
- 54.02 Garbage receptacles
- 54.03 Removal of garbage to be by contractor designated by town
- 54.04 Placement of containers for collection
- 54.05 Use of recycling containers

- 54.99 Penalty

CHAPTER 54: GARBAGE COLLECTION AND RECYCLING SERVICES

' 54.01 DEFINITIONS.

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

ASHES. All materials resulting from the burning of fuels.

GARBAGE RECEPTACLE. A container made of metal or plastic of not less than three nor more than 20 gallons in size, with a closely fitted lid of metal or plastic and containing a bail for the handling and draining of garbage placed therein; this term shall also include garbage bags.

KITCHEN GARBAGE. Any and every accumulation of animal and vegetable matter, liquid, or solid, resulting from food preparation.

RECYCLING CONTAINER. A container provided by the town for the collection of designated recyclable materials.

RUBBISH. All discarded refuse of any household or dwelling including waste metal material, broken crockery, glass, china ware, grass, leaves, weeds, rags, bottles, tin cans, paper, and other household trash. (Ord. 2017-3A, passed 3-20-17)

' 54.02 GARBAGE RECEPTACLES.

(A) The town may, through its designated garbage collection service provider, provide a garbage receptacle for Each single and double-occupancy dwelling in the town. Until such time as the town provides residents garbage receptacles, residents shall be responsible for providing their on receptacles that meet the standards provided in ' 54.01.

(B) Garbage receptacles shall be placed outside of all such dwellings at the time designated by the contractor in ' 54.03 and in a readily accessible place so that it may be emptied or removed. All kitchen garbage shall be placed in garbage receptacles and in no other place. No other article or thing shall be placed or permitted to be placed in a garbage receptacle. The receptacle shall not be filled nearer than four inches from the top of the container. Rubbish and ashes shall be placed in containers with a capacity of not less than three nor more than 20 gallons in capacity; such containers shall be provided with handles.
(Ord. 2017-3A, passed 3-20-17)

' 54.03 REMOVAL OF GARBAGE TO BE BY CONTRACTOR DESIGNATED BY TOWN.

All kitchen garbage, rubbish, and ashes shall be removed by a contractor designated by the town.
(Ord. 2017-3A, passed 3-20-17)

' 54.04 PLACEMENT OF CONTAINERS FOR COLLECTION.

Garbage, rubbish, and ashes shall be deposited in the containers required in ' 54.02 at the edge of the street in front of each home and dwelling disposing of these materials. The town shall provide for the removal the garbage, rubbish, and ashes from such points, except where homes and dwellings are located on through alleys, and in that case the material may be deposited for collection at a point located on such alley.
(Ord. 2017-3A, passed 3-20-17)

' 54.05 USE OF RECYCLING CONTAINERS.

The town may, as part of the garbage collection services provided to town residents, provide recycling containers in which town residents may deposit designated recyclable materials such as aluminum, glass, and paper. It shall be a violation of this section for any non-town resident or business to utilize the recycling containers. It shall also be a violation of this section for any person to deposit anything other than designated recyclable materials into a recycling container.
(Ord. 2017-3A, passed 3-20-17)

' 53.99 PENALTY.

Any person violating ' 54.05 shall be subject to a penalty of \$250 for the first offense and such penalty shall be increased by \$100 for each subsequent violation to the limits allowed by law. Any person violating any other provision of this chapter shall be fined not more than \$500 for each violation. Every day that a violation continues constitutes a separate offense.

(Ord. 2017-3A, passed 3-20-17)

