

ORDINANCE NO. 10-04-12

AN ORDINANCE ESTABLISHING INDUSTRIAL PRETREATMENT REQUIREMENTS
FOR USERS OF THE NOBLESVILLE WASTEWATER TREATMENT SYSTEM

WITNESS THAT:

WHEREAS, the Indiana Department of Environmental Management ("IDEM") has established certain policies, procedures, and standards which require industrial users of a municipal wastewater system to pretreat certain discharges into a municipality's wastewater system; and,

WHEREAS, the Noblesville Wastewater Department has worked with IDEM to prepare an Ordinance ("the Pretreatment Ordinance") which establishes the State mandated requirements and standards for the pretreatment of industrial waste into the City's Wastewater Treatment System; and,

WHEREAS, the Common Council of the City of Noblesville has determined that the terms and conditions of the Pretreatment Ordinance should be codified as a new Chapter 52 in the Code of Ordinances of the City of Noblesville.

IT IS THEREBY ORDAINED by the Common Council of the City of Noblesville that a new Chapter 52 of the Code of Ordinances is approved as follows:

Chapter 52. Industrial Pretreatment Requirements

SECTION A - GENERAL PROVISIONS

A.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works (POTW) for the City of Noblesville Utilities Department (Wastewater) and enables the Utility to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the POTW;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- F. To enable the Utility to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

This ordinance shall apply to all users of the POTW. The ordinance provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

A.2 Administration

Except as otherwise provided herein, the Utility Director, of the Noblesville Utilities Department shall administer, implement, and enforce the provisions of this ordinance. The Director may delegate any powers granted to or duties imposed upon the Utility Director to other Utility or City of Noblesville personnel.

A.3 Abbreviations

The following abbreviations shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- IDEM - Indiana Department of Environmental Management
- mg/l - milligrams per liter
- NPDES - National Pollutant Discharge Elimination System

- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- TSS - Total Suspended Solids
- USC - United States Code

A.4 Definitions

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

1. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.
2. Approval Authority. The approval authority for the City of Noblesville Utilities Department is IDEM.
3. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/1) as defined in the current edition of "Standard Methods."
4. Color. The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
5. Environmental Protection Agency (EPA). The U.S. Environmental Protection Agency or, where appropriate, the Region 5 Water Management Division Director, or other duly authorized official of said agency.
6. Grab Sample. Means a sample taken on a one-time basis without consideration for flow or time.
7. Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any grab sample or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
8. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, does one (1) of the following:
 - a. Inhibits or disrupts the POTW, its treatment processes, or its selected sludge use or disposal methods.
 - b. Causes a violation of any requirements of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.
 - c. Prevents the use of the POTW's sewage sludge or its sludge disposal method selected in compliance with the following statutory provisions, regulations, or permits issued thereunder or more stringent state or local regulations

- (1) Section 405 of the Clean Water Act (33 U.S.C. 1345).
- (2) The Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901), including:
 - (a) Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA); and
 - (b) the rules contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA (42 U.S.C. 6941).
- (3) The Clean Air Act (42 U.S.C. 7401).
- (4) The Toxic Substances Control Act (15 U.S.C. 2601).

9. Maximum Allowable Discharge Unit. The maximum concentration (or loading) 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.

10. 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.

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

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

13. Person. Any individual, partnership, co-partnership, 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.

14. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units of 0-14.

15. 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 (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

16. Pollution Prevention.

(a) Except as provided in Par. (b), any equipment and technology modifications, process or procedure modifications, reformulation or redesign of products, substitution of raw materials, improvements in housekeeping, maintenance, training, or inventory control, or any other practice that:

- Reduces the amount of a pollutant entering a waste stream or released to the environment, including fugitive emissions, before recycling, treatment or disposal; and

- Reduces the hazards to public health and the environment associated with the release of the pollutant.

(b) Pollution prevention does not include any practice that alters the physical, chemical, or biological characteristics or the volume of a pollutant through a process or activity that is not integral to add necessary for the production of a product or the providing of a service.

17. Pretreatment. Pretreatment is the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties before or instead of discharging the pollutants to the sewerage system.

18. Pretreatment Standard or Requirement. A pretreatment standard or requirement will mean any substantive or procedural requirement of this chapter, a categorical pretreatment standard, or a wastewater discharge permit.

19. Process Wastewater. Any water that during manufacturing or processing comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

19. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section B.1 of this ordinance.

20. Publicly Owned Treatment Works (POTW). A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City of Noblesville. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.

21. Septic Tank Waste. Septic tank waste will be any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

22. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

23. Significant Industrial User.

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

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

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

24. Slug Load or Slug. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section C.3 of this ordinance.

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

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

27. Suspended Solids. Solids in wastewater as defined by the "Total Suspended Solids Test" in the current edition of "Standard Methods."

28. Time Composite Sample. A sample resulting from the combination of individual samples of equal volume taken at equal intervals of time, without consideration of the volume or rate of flow.

29. User or Industrial User. A source of indirect discharge.

30. Utility. The Utility of Noblesville, Indiana, or the Wastewater Utility of Noblesville, Indiana, or Utilities Department.

31. Utility Director. The person designated by the City of Noblesville to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.

32. 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.

33. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

34. Upset. An incident at a user's facility that: Is exceptional, unintentional, and temporary; is caused by factors beyond the reasonable control of the user; and results in non-routine discharges to the sewerage system.

35. Waste Minimization. A reduction of the amount or toxicity of pollutants requiring disposal, including but not limited to:

- a. Pollution Prevention,
- b. Using a waste from one process as an ingredient in the same or another process,
- c. Processing a waste to recover resources, and
- d. Treating the waste to reduce its mass, volume, or toxicity.

SECTION B - GENERAL SEWER USE REQUIREMENTS

B.1 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.

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

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140F (60C) using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH less than 5.5 or more than 12.5, or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Fats, Oils and Grease (FOG) and Solid or viscous substances in amounts which will cause obstruction of the flow in the sewer collection system or POTW resulting in interference;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW; or any wastewater treatment or sludge process, which will constitute a hazard to humans or animals;
- (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which has a temperature higher than 104 degrees F. or 40 degrees C.
- (6) Petroleum oil, nonbiodegradable cutting oil, used motor vehicle anti-freeze, motor oil, brake fluid, transmission fluid, hydraulic fluid, oil-based paint, paint thinners or products of mineral oil origin, in amounts that will cause interference or pass through; but in no case greater than 25 mg/L
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the sewer collection system or POTW in a quantity that may cause acute worker health and safety problems;

(8) Trucked or hauled pollutants.

(9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

(10) Wastewater which imparts color which cannot be removed by the treatment process, which consequently imparts color to the treatment plant's effluent, thereby violating the Utilities wastewater discharge permit;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable IDEM or Federal regulations and only after written notification of the Utility Director;

(12) Storm water, surface water, ground water, artesian well water, roof runoff, any and all subsurface drainage including sump pump discharges, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Utility Director;

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

(14) Medical wastes, except as specifically authorized by the Utility Director or IDEM in a discharge permit;

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

(16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(17) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 10% or any single reading over 25% of the Lower Explosive Limit.

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.

B.2 Federal Categorical Pretreatment Standards

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

B.3 State Pretreatment Requirements

Indiana Industrial State Pretreatment standards (327 IAC 5-16 thru 327 IAC 5-21) are incorporated into this ordinance.

B.4 Local Limits

The following pollutant limits are established to protect against pass through and interference.

[The following pollutant limits were developed by the Noblesville Utilities Department as a means to prevent the introduction of pollutants into its treatment plant. Local discharge limits are established on a case-by-case basis. Thus, the following table may be further evaluated.] No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

Pollutant	Maximum Monthly Average (mg/L)	Maximum for Any One Day (mg/L)
Arsenic	0.30	0.90
Cadmium	0.20	0.60
Chromium	2.0	6.0
Copper	2.0	6.0
Cyanide	1.0	1.9
Lead	1.0	3.0
Mercury	0.10	0.30
Molybdenum	0.10	0.30
Nickel	2.0	6.0
Selenium	0.50	1.5
Silver	1.5	4.5
Zinc	4.0	12.0
Oil and Grease	N/A	100

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. These analytical methods are set forth in 40 CFR, Part 136 or reference cited in that regulation, or found in U.S. EPA, Office of Solid Waste and Emergency Response, Test Methods for Evaluating Solid Waste, SW-846

B.5 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.

B.6 Right of Revision

The Utility reserves the right to establish more stringent standards or requirements on discharges to the POTW.

B.7 Right of Refusal

The Utility reserves the right to approve or deny any new or increased discharges to the POTW.

SECTION C - PRETREATMENT OF WASTEWATER

C.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section B.1 of this ordinance within the time limitations specified by EPA, the State, or the Utility Director, 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 Utility Director for review. 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 utility under the provisions of this ordinance.

C.2 Additional Pretreatment Measures

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

B. The Utility Director may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow.

C. Oil and sand interceptors shall be provided by the user when, in the opinion of the Utility Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. Grease interceptors are a mandatory requirement for any food service facilities in the City of Noblesville. The interceptors are required to be an in-ground unit with a minimum 1,000 gallon capacity; except where space does not allow, then considerations could be made with requirements to have them cleaned more often so as to function properly. All interception units shall be of type and capacity approved by the Utility Director or City Engineering Dept. and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

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

C.3 Accidental Discharge/Slug Control Plans

At least once every two (2) years, the Utility Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Utility Director may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Utility Director of any accidental or slug discharge, as required by Section D.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

SECTION D - REPORTING REQUIREMENTS

D.1 Baseline Monitoring Reports

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

B. Users described above shall submit the information set forth below.

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

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

(3) Description of Operations: A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram 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 waste stream formula set out in 40 CFR 403.6(e).

(5) Measurement of Pollutants.

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

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Utility Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section F.9 of this ordinance.

(c) Sampling must be performed in accordance with procedures set out in Section F.9 of this ordinance.

(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 is to be used 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 Section D.2 of this ordinance.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified.

D.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section D.1 (B) (7) of this ordinance:

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

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

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

D. In no event shall more than nine (9) months elapse between such progress reports to the Utility Director.

D.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (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 Utility Director a report containing the information described in Section D.1 (B) (4-6) of this ordinance. 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.

D.4 Periodic Compliance Reports

A. All significant industrial users shall once per year, 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 year. All periodic compliance reports must be signed and certified. The yearly reporting frequency may be modified to require more frequent reporting if deemed necessary by the Utility Director.

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 Utility Director, using the procedures prescribed in Section D. 11 of this ordinance, the results of this monitoring shall be included in the report.

D.5 Reports of Changed Conditions

Each user must notify the Utility Director 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 Utility Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition.

B. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

D.6 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall within two hours of becoming aware of the incident, telephone and notify the Utility of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

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

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

D.7 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Utility Director within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Utility Director within thirty (30) days after becoming aware of the violation.

D.8 Analytical Requirements

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

D.9 Sample Collection

A. All significant industrial users with IDEM discharge permits must sample in accordance with that permit.

B. For other users of the wastewater system that are required or requested by the Utility Director to provide samples the user must collect wastewater samples using flow proportional composite collection techniques, except as indicated in Section C, below. In the event flow proportional sampling is infeasible, the Utility Director may authorize the use of time proportional sampling or a minimum of four (4) 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.

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

D.10 Timing

Written reports or electronic CDs will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern. Electronic reporting will be deemed to have been submitted on the date listed as received on the email.

D.11 Record Keeping

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

SECTION E - COMPLIANCE MONITORING

E.1 Right of Entry: Inspection and Sampling

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

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 Utility Director will be permitted to enter without delay for the purposes of performing specific responsibilities.

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

C. The Utility Director may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly 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 Utility Director and shall not be replaced. The costs of clearing such access shall be born by the user.

E. Unreasonable delays in allowing the Utility Director access to the user's premises shall be a violation of this ordinance.

E.2 Search Warrants

If the Utility Director has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Utility designed to verify compliance with this ordinance or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Utility's Attorney may seek issuance of a search warrant from the Municipal Court, Superior Court or Circuit Court, the Utility may seek a search and/or seizure warrant describing therein the specific location subject to the warrant. The request by the Utility shall specify what, if anything may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer. In the event of an extreme emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

SECTION F - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, and from the Utility Director's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Utility Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION G - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

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

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6-) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other discharge violation that the Utility Director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- D. Any discharge that has caused imminent endangerment to the public or to the environment, or has resulted in the Utility Director's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- F. Failure to accurately report noncompliance; or
- G. Any other violation(s) which the Utility Director determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION H - ADMINISTRATIVE ENFORCEMENT REMEDIES

H.1 Informal Notice

The Utility Director may issue an informal notice it will be either 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 escalated enforcement action.

H.2 Notice of Violation (NOV)

When the Utility Director finds that a user has violated, or continues to violate, any provision of this ordinance, an IDEM discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Utility Director may serve upon that user a written Notice of Violation. This Notice of

Violation does not relieve the user from any penalties or notices issued by IDEM. Within 10 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, as well as increased sampling of the parameter in violation within thirty (30) days, shall be submitted by the IU to the Utility Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Utility Director to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

H.3 Administrative Order

The Utility Director may enter into Administrative 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. This will be the first formal response to significant noncompliance (unless factors necessitate escalated enforcement actions). The Director may require compliance schedules, administrative fines, termination of service and show cause orders. In addition, it specifies the name of the parties involved, statement of the facts, the requirement to ensure compliance and the enforcement associated with any future non-compliance and shall be judicially enforceable

H.4 Show Cause Hearing

The Utility Director may order a user which has violated, or continues to violate, any provision of this ordinance, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Utility Director and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 21 days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

H.5 Compliance Schedule /Order

When the Utility Director finds that a user has violated, or continues to violate, any provision of this ordinance, an IDEM discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Utility Director may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified scheduled time. This will contain increments of progress in the form of dates for the commencement and completion of major events leading to compliance. Compliance schedules 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. 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. A compliance schedule may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance schedule relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance schedule shall not be a bar against, or a prerequisite for, taking any other action against the user. In addition, all compliance schedules shall contain the following:

1. Monitoring requirements with the location for monitoring;
2. How the data will be used for evaluating compliance;
3. Enforcement associated with non-compliance;
4. Closure date after which IU will be considered either non-compliant with the established compliance schedule, or evaluated for compliance.

H.6 Cease and Desist Orders

When the Utility Director finds that a user has violated, or continues to violate, any provision of this ordinance, an IDEM 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 Utility Director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

H.7 Administrative Fines

A. When the Utility Director finds that a user has violated, or continues to violate, any provision of this ordinance, an IDEM discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Utility Director may fine such user in an amount not to exceed \$1,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after 60 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 1% per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Utility Director to reconsider 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 Utility Director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Utility Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine. When assessing an administrative fine the following factors are 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 water, sludge quality, and POTW operation;
5. Whether the violation threatened public health;
6. The economic benefit or savings the industrial user gained from the noncompliance;
7. Compliance history of the industrial user; and
8. Whether the industrial user is making a good faith effort to comply

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

H.8 Termination of Service

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

A. 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 Utility Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Utility Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Utility Director that the period of endangerment has passed.

B. 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 Utility Director prior to the date of any show cause or termination hearing.

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

H.9 Cost Recovery

In addition to administrative fines imposed by the Director, the IU shall be responsible for paying the following (but not limited to) costs incurred by the City 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 City/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 City/Town as a result of the violation;
7. Any and all expenses of outside professionals to include, but not limited to, engineers, scientists, and/or legal counsel; and
8. Other costs associated with the detection and correction of the violations.

SECTION I – JUDICIAL ACTION

I.1 Injunctive Relief

When the Utility Director finds that a user has violated, or continues to violate, any provision of this ordinance, IDEM discharge permit limits, or order issued hereunder, or any other pretreatment standard or requirement, the Utility Director may petition the appropriate Court through the Utility's 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 ordinance on activities of the user. The Utility Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

I.2 Civil Penalties

A. A user who has violated, or continues to violate, any provision of this ordinance, IDEM discharge permit limits, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Utility for a minimum civil penalty of at least \$1000 per day, per violation, in accordance with 40 CFR 403.8(f)(1)(vi)(A), but no more than \$2,500 per day, per violation for a first violation nor more than \$7,500 per day, per violation for subsequent violations, in accordance with IC 36-1-3-8(a)(10)(B). In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

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

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

D. Filing a suit for civil penalties shall not be a barrier against, or a prerequisite for, taking any other action against a user.

I.3 Criminal Prosecution

A. A user who willfully or negligently violates any provision of this ordinance, IDEM discharge permit limits, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$5,000 per violation, per day, or imprisonment for not more than 3 years, or both.

B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000, or be subject to imprisonment for not more than 90 days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under Indiana law.

C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, IDEM discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$5,000 per violation, per day, or imprisonment for not more than 3 years, or both.

D. In the event of a second conviction, a user shall be punished by a fine of not more than \$10,000 per violation, per day, or imprisonment for not more than 5 years, or both.

I.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive; The Utility Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Utility's enforcement response plan. However, the Utility Director may take other action against any user when the circumstances warrant. Further, the Utility Director is empowered to take more than one enforcement action against any noncompliant user.

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 POTW and its counsel. As an alternative to judicial action, the POTW and IU may agree to a voluntary zero discharge of industrial waste by the IU pending correction of the violation.

SECTION J - SUPPLEMENTAL ENFORCEMENT ACTION

J.1 Liability Insurance

The Utility Director may submit to IDEM recommendation to decline their discharge permit for any user who has failed to comply with any provision of this ordinance, a previously issued IDEM 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.

J.2 Public Nuisances

A violation of any provision of this ordinance, IDEM discharge permit limits, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Utility Director. Any person(s) creating a public nuisance shall be subject to the provisions of the City Of Noblesville Code governing such nuisances, including reimbursing the Utility for any costs incurred in removing, abating, or remedying said nuisance.

SECTION K - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

K.1 Upset

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

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

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

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

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

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

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

K.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section B.1 (A) of this ordinance or the specific prohibitions in Sections

B. 1 (B)(3) through (17) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

A. the user's IDEM NPDES issues permit limits exist for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

B. the user does not require an IDEM NPDES permit, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Utility was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

K.3 Bypass

A. For the purposes of this section,

(1) "Bypass" means the intentional diversion of waste streams from any portion of a user's pretreatment facility.

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

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

C. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Utility Director, at least ten (10) days before the date of the bypass, if possible. (2) A user shall submit oral notice to the Utility Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Utility Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. (1) Bypass is prohibited, and the Utility Director may take an enforcement action against a user for a bypass, unless

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

(b) 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

(c) The user submitted notices as required under paragraph (C) of this section. (2) the Utility Director may approve an anticipated bypass, after considering its adverse effects, if the Utility Director determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

SECTION L - WASTEWATER TREATMENT RATES INDUSTRIAL /COMMERCIAL

L.1 Metered Water Supply

User charges and fees shall be based upon the total amount of water used from all users unless, in the opinion of the Director, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the user and approved by the Director.

L.2 Metered Wastewater Volume and Metered Diversions

For users where a significant portion of the water received from any metered source in excess of 10,000 gallons per month and does not flow into the sanitary sewer because of the principal activity of the user or removal by other means, the user charges and fees may be applied against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the user if the user is to avoid the application of the user charges and fees against the total amount of water used from all sources. The user may install a meter of a type and at a location approved by the Director and at the user's expense. Such meters that

measure the amount of sewage discharge shall be certified and calibrated for accuracy at least once per year at the expense of the user and when deemed necessary by the Director.

SECTION M — SURCHARGE COSTS

A. Each user discharging wastewater into the sanitary sewers shall be subject to a surcharge in addition to the regular sewage service charge based on content of the waste based on the biochemical oxygen demand (BOD), suspended solids (SS) and phosphorous content of the wastes, if the wastes have a concentration higher than 300mg/L of BOD, 350mg/L of SS or 15mg/L of phosphorous.

Other pollutants may be included as deemed necessary.

B. Sampling and testing for surcharges or use charges. The discharged wastewater will be sampled during each sewage billing period for minimum of a one-day period (24 continuous hours) by means of a composite sample. An extended sampling period of up to one week (7 continuous days) or reduction may be requested to enable the gathering of a sample representative of a company's wastewater. The extension or reduction of the sampling period beyond the initial one-day sampling period maybe requested by either the sewer user involved or the City of Noblesville. If an extended sampling period is requested, the parameter values used to calculate the surcharge will be the arithmetical average of the individual values. In the event a company or industry has multiple discharges of wastewater, each discharge shall be sampled according to quality. If significant process changes are made to affect quality of any discharge, resampling may be requested by either the sewer user involved or the City of Noblesville.

C. These tests shall be made in accordance with the latest editions of Standard Methods for the Examination of Water or by an approved EPA method.

D. Computation of surcharge

Biochemical Oxygen Demand (B.O.D.) in excess of 300 mg/L \$0.07 per pound of BOD

Suspended Solids (S.S.) in excess of 350 mg/L \$0.06 per pound of SS

Phosphorous in excess of 15 mg/L \$0.51 per pound of Phosphorous

SECTION N - MISCELLANEOUS PROVISIONS

N.1 Pretreatment Charges and Fees

The City, acting by its Common Council, may adopt reasonable fees for reimbursement of costs of setting up and operating the Utility's Pretreatment Program which may include:

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

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

C. Fees for filing appeals; and

D. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Utility.

E. The Board of Public Works and Safety is authorized to approve an Enforcement Response Plan, and such additional plans, policies, and procedures, as it deems are necessary and proper to carry out the terms and conditions of this Ordinance.

N.2 Severability

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

N.3 Repeal of Prior Ordinances or Regulations

In the event that there is any ordinance, code, policy, or procedure of the City which is in conflict with any term or terms of this Chapter, the terms of the ordinance, code, policy, or procedure in conflict with this Ordinance are expressly repealed.

SECTION O - EFFECTIVE DATE





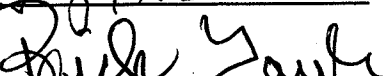
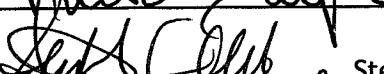
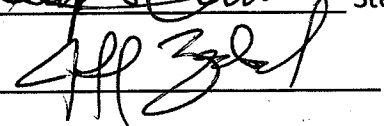
This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

ALL OF WHICH IS ORDAINED by the Common Council of the City of Noblesville this 10th day of April, 2012.

COMMON COUNCIL OF THE CITY OF NOBLESVILLE

Aye

Nay

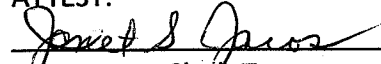
	Brian Ayer _____
	Mark Boice _____
	Roy Johnson _____
	Greg O'Connor _____
	Rick Taylor _____
	Stephen C. Wood _____
	Jeff Zeckel _____

APPROVED and signed by the Mayor of the City of Noblesville, Hamilton County, this
10th day of April, 2011.



John Ditslear, Mayor
City of Noblesville, Indiana

ATTEST:



Janet Jaros, Clerk-Treasurer
City of Noblesville, Indiana