

**TITLE V: PUBLIC WORKS**

Chapter

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## CHAPTER 50: UTILITIES GENERALLY

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## GENERAL PROVISIONS

### § 50.01 AUTHORITY TO ESTABLISH UTILITY SERVICE.

The town may furnish or regulate the furnishing of utility service to the public.  
(I.C. 36-9-2-15) ('97 Code, § 9-1) (Ord. 10-21-99(A), passed 10-21-99)

### § 50.02 AUTHORITY TO ESTABLISH WATERWORKS.

The town may regulate the furnishing of water to the public and may establish, maintain and operate waterworks.  
(I.C. 36-9-2-14) ('97 Code, § 9-2) (Ord. 10-21-99(A), passed 10-21-99)

### § 50.03 AUTHORITY TO REGULATE THE DISPOSAL OF SANITARY SEWAGE.

(A) The town may regulate the furnishing of the service of collecting, processing and disposing of waste substances and domestic or sanitary sewage, which includes the power to fix the price to be charged for that service.  
(I.C. 36-9-2-16)

(B) The town may collect, process and dispose of waste substances and domestic or sanitary sewage and may establish, maintain and operate sewers, sewage disposal systems and systems to collect and dispose of waste substances.  
(I.C. 36-9-2-17) ('97 Code, § 9-3) (Ord. 10-21-99(A), passed 10-21-99)

### § 50.04 DEFINITIONS AND ABBREVIATIONS.

(A) Abbreviations.

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, 42
USC 6901 et seq.		
	SIC	Standard Industrial Classification
	SIU	Significant Industrial User
	TSS	Total Suspended Solids
	USC	United States Code

(B) Definitions. For the purpose of this title, 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.

**APPROVAL AUTHORITY.** The Regional Administrator of the United States Environmental Protection Agency or delegated designee thereof.

**ASTM.** The American Society for Testing and Materials.

**AUTHORIZED REPRESENTATIVE OF THE USER.**

(a) If the user is a corporation:

1. 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

2. The manager of one or more manufacturing, production or operation facilities employing more than five persons or having gross annual sales or expenditures exceeding \$500,000 if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

(c) 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.

(d) The individuals described in subsections (a) through (c) 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 town.

**BOD (BIOCHEMICAL OXYGEN DEMAND).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20°C, expressed in milligrams per liter.

**BUILDING SEWER.** The extension from the building drain to the public sewer or other place of disposal.

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

**COMBINED SEWER.** A sewer receiving both surface runoff and sewage.

**COMPOSITE SAMPLE.** The sample resulting from the combination of individual wastewater taken at selected intervals based on an increment of flow and time.

**DIRECTOR.** The **DIRECTOR** or the **UTILITIES DIRECTOR** is the person designated by the town to supervise the operation of the POTW and who is charged with certain duties and responsibilities by this title, or a duly authorized representative. The **UTILITIES DIRECTOR** is not, and the town shall not have, a “Utilities Superintendent,” as that term is defined in I.C. 8–1.5–3–5, and the responsibilities provided by I.C. 8–1.5–3–5(a) shall be assigned to the Town Manager.

**DWELLING UNIT.** A room or rooms or any other space or spaces in which cooking facilities are provided and having individual sink and toilet facilities. The term shall include, but not be limited to single–family residences, duplexes, apartment houses and mobile homes.

**EMPLOYEE.** Any owner, employee, agent, inmate, customer or any other person regularly in or on the premises not less than 20 hours per week.

**ENVIRONMENTAL PROTECTION AGENCY or EPA.** The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of 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 § 307 of the Act, 33 USC 1317.

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

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

**INDIRECT DISCHARGE or DISCHARGE.** The introduction of pollutants into the POTW from any nondomestic source regulated under § 307(b), (c) or (d) of the Act, 33 USC 1317(b), (c) or (d).

**INDUSTRIAL USERS.** Any user in the business of manufacturing or processing and shall include laundries and dry cleaning plants who use water for cleaning processes, excluding coin operated laundries.

**INDUSTRIAL WASTES.** The liquid wastes from industrial manufacturing processes, trade or business as distinct from sanitary sewage.

**INSPECTOR.** The person duly authorized by the town, through its Town Council, to inspect and approve the installation of building sewers and their connection to the public sewer system. This term includes, but is not limited to: Town Manager, Utility Department Director or designated agent of either.

**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, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal and therefore is a cause of a violation of the town's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder or any more stringent state or local regulations: § 405 of the Act, 33 USC 1345; the Solid Waste Disposal Act, 42 USC 6901 et seq., including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subchapter IV of the Solid Waste Disposal Act, 42 USC 6941 et seq.; the Clean Air Act, 42 USC 4701 et seq.; the Toxic Substances Control Act, 15 USC 2601 et seq.; and the Marine Protection, Research and Sanctuaries Act, 33 USC 1401 et seq.

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

**NATURAL OUTLET.** Any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.

**NEW SOURCE.**

(a) 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 § 307(c) of the Act, 33 USC 1317 which will be applicable to the source if the standards are thereafter promulgated in accordance with that section, provided that:

1. The building, structure, facility or installation is constructed at the site at which no other source is located;
2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. 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 engaged in the same general type of activity as the existing source, should be considered.

(b) 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 (a)(2) or (3) above but otherwise alters, replaces or adds to existing process or production equipment.

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

1. Begun, or caused to begin, as part of a continuous onsite construction program:
  - a. Any placement, assembly or installation of facilities or equipment; or
  - b. Significant site preparation work, including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or

2. 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 section.

**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.

**NORTH AMERICAN INDUSTRIAL CLASSIFICATION SYSTEM (NAICS),** formerly known as the **STANDARD INDUSTRIAL CLASSIFICATION (SIC) SYSTEM.** A classification pursuant to the North American Industrial Classification System Manual, formerly published as the Standard Industrial Classification Manual.

**PASS THROUGH.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conduction with a discharge or discharges from other sources, is 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, firm, company, association, society, corporation or group.

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

**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, BOD, COD, toxicity or odor).

**PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing the 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 imposed on a user, other than a pretreatment standard.

**PRETREATMENT STANDARDS or STANDARDS.** Pretreatment standards shall mean prohibited discharge standards and local limits.

**PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in §§ 52.003 and 52.004.

**PUBLIC SEWER.** A sewer in which all owners of abutting properties have equal rights and is controlled by public authority.

**PUBLICLY OWNED TREATMENT WORKS or POTW.** A “treatment works,” as defined by § 212 of the Act (33 USC 1292) which is owned by the town. 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.

**SANITARY BUILDING DRAIN.** That part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building which receives the discharge from soil or waste stacks and branches and conveys the same to a point three feet outside the building walls where it connects with its respective building sewer.

**SANITARY SEWER.** A sewer which carries sewage and to which storm, surface and ground waters are not intentionally admitted.

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

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

**SEWAGE TREATMENT PLANT.** Any arrangement of devices and structures used for treating sewage.

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

**SHOP IN RESIDENCE.** Residences with shop facilities located therein such as beauty shops, barber shops, small retail shops and repair facilities.

**SIGNIFICANT INDUSTRIAL USER.**

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

(b) A user that:

1. Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

2. Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

3. Is designated as such by the town on the basis that it has a

reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.



(c) Upon a finding that a user meeting the criteria in subsection (b) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the town 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 the user should not be considered a significant industrial user.

**SLUDGE.** Biomass residue generated from the treatment process of water pollution control facilities.

**SLUG.** Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than 15 minutes more than five times the average 24 hour concentration or flows during normal operation.

**SLUG LOAD or SLUG.** Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in §§ 52.003 and 52.004 or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.

**STORM DRAIN or STORM SEWER.** A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes other than unpolluted cooling water.

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

**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 MANAGER.** The person designated by the town to supervise all town activities, including operation of the POTW, and who is charged with certain duties and responsibilities by this title, or a duly authorized representative.

**TOXIC POLLUTANT.** One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of § 307 (33 USC 1317) of the Act.

**USER or INDUSTRIAL USER.** A source of indirect discharge. A **USER** shall also mean any person, entity or business which is required to collect or use or is actually connected to or using the POTW.

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

**WATERCOURSE.** A channel in which a flow of water occurs, either continuously or intermittently.

**WPCF.** The Water Pollution Control Federation.  
(‘97 Code, § 9-60) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99; Am. Ord. 5-18-00, passed 5-18-00)

### § 50.05 COMPLIANCE MONITORING PROCEDURES.

(A) Compliance monitoring activities conducted by the Director shall be necessary to identify and document violations that can be presented as admissible and irrefutable evidence in administrative actions and legal proceedings.

(B) Industrial compliance with applicable regulations is determined and evaluated through:

- (1) Self-monitoring data from industrial users;
- (2) Inspections conducted by the Director;
- (3) Surveillance sampling and analysis conducted by the Director;

(4) Self-monitory data is required by most permitted industrial users. All reports are monthly on the same forms which are required by IDEM to ensure all necessary information is submitted. Each report must also be signed by an authorized representative of the industry. The data is in itself evidence if violations are identified.

(C) Inspections by the Director shall be conducted to verify compliance and to identify any potential problems or violations. A standard inspection shall be used to ensure all areas are evaluated and documented on the same form as used by the IDEM inspectors and will be signed and dated by the Director. If noncompliance situations are noted, follow up inspections will be conducted with the industry.

(D) Compliance monitoring requires strict adherence to standard procedures by the Director or the industry if self-monitored. Personnel trained in sampling and inspection protocol are required to collect samples and complete a field chain-of-custody form which accompanies each sample. This form shall follow the sample through the analytical process to maintain its identity and to assign to it the proper results. Each person receiving custody of the sample is required to sign the chain-of-custody form.

(E) Information submitted by industrial users on the industrial discharge permit

application must be evaluated for compliance. The Director must also determine if the industrial user has failed to document information necessary to complete the application. Failure to disclose vital information is a

violation of 40 CFR 403 regulations. The application form shall contain a statement attesting to the accuracy and completeness of the information submitted which must also be signed by an authorized representative of the industrial user.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 50.06 DATA MANAGEMENT.**

The majority of data to be screened and evaluated shall be generated through industrial self-monitoring and compliance monitoring by the Director. All data gathered by these activities shall be reviewed by the Director. Noncompliance and violations shall be tracked monthly by the Director and the appropriate enforcement action initiated.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 50.07 IDENTIFICATION OF VIOLATIONS.**

(A) Violation identification pretreatment requirements, regardless of the severity, shall initiate the enforcement procedures. Discovery of a violation may occur as a result of the following activities:

- (1) Review of pretreatment sampling results;
- (2) Review of industrial user self-monitoring results;
- (3) Spill/accidental discharge reports from industrial users;
- (4) Twenty-four-hour notification by industrial user of violations;
- (5) Site visits/inspections by the Director;
- (6) Information provided by the public;
- (7) Observations by field personnel;
- (8) Review of compliance schedule requirements.

(B) Once violations are identified, it shall be the responsibility of the Director to implement the appropriate enforcement response.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 50.08 TRACKING SYSTEM.**

(A) Industrial users shall be required to submit various reports and information as a result of a number of compliance activities. Reports or information required from industry on a regular basis must be logged and tracked to ensure compliance with deadlines and submittal dates.

(B) The following items are required to be submitted on specific dates:

- (1) Monthly discharge reports;
- (2) Industrial discharge permit applications;
- (3) Compliance schedule progress reports;
- (4) Accidental discharge reports following spills;
- (5) Written response to notices of violation;
- (6) Baseline monitoring reports; and
- (7) Special correspondence.

(Ord. 10-21-99(A), passed 10-21-99)

**UTILITY FUNDS****§ 50.20 SEWAGE WORKS AND REVENUE FUNDS.**

There is created a fund known as the Sewage Works Revenue Fund (the “Revenue Fund”) into which all income and revenues of the sewage works shall be deposited upon receipt. This Fund shall be maintained separate and apart from all other accounts of the town. All monies deposited in the Revenue Fund may be invested in accordance with I.C. 5-13-9 and other applicable laws.

(‘97 Code, § 9-115) (Ord. 3-29-89(A), passed 4-27-89; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 50.21 OPERATION AND MAINTENANCE FUND.**

Any Operation and Maintenance Fund monies accumulated for the refunded bonds and not a part of the issuer’s funds shall be credited to and become a part of the Operation and Maintenance Fund (the “Operation and Maintenance Fund”)

created as of the date of the refunding of the refunded bonds.

There shall be credited on the last day of each calendar month a sufficient amount of the revenues of the sewage works so that the balance in the Operation and Maintenance Fund shall be sufficient to pay its expenses of operation, repair and maintenance for the next succeeding two calendar months. The monies credited to the Operation and Maintenance Fund shall be used for the payment of the reasonable and payable operation, repair and maintenance expenses of the sewage works on a day to day basis, but none of the monies in the Operation and Maintenance Fund shall be used for depreciation, replacements, improvements, extensions or additions. Any balance in the Operation and Maintenance Fund in excess of the expected expenses of operation, repair and maintenance for the next succeeding month may be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the outstanding bonds of the sewage works.

('97 Code, § 9-116) (Ord. 3-29-89(A), passed 4-27-89; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.22 SEWAGE WORKS SINKING FUND.**

(A) Sinking Fund. There is created a Sinking Fund for the payment of the principal of and interest on revenue bonds which by their terms are payable from the net revenues of the sewage works and the payment of any fiscal agency charges in connection with the payment of bonds and interest, which fund shall be designated the Sewage Works Sinking Fund (the "Sinking Fund"). There shall be set aside and deposited in the Sinking Fund, as available, and as provided below, a sufficient amount of the net revenues of the sewage works to meet the requirements of the Bond and Interest Account and of the Debt Service Reserve Account created in the Sinking Fund. The payments shall continue until the balance in the Bond and Interest Account, plus the balance in the Debt Service Reserve Account described below, equals the amount needed to redeem all of the then outstanding bonds.

(B) Bond and Interest Account. Any monies accumulated to pay principal and interest on the refunded bonds and not a part of the issuer's funds shall be credited to and become a part of the Bond and Interest Account created as of the date of the refunding of the refunded bonds. Beginning as of the date of issuance of the refunding bonds, there shall be transferred, on the last day of each calendar month, from the Revenue Fund and credited to the Bond and Interest Account an amount of the net revenues equal to at least the sum of  $\frac{1}{12}$  of the principal and  $\frac{1}{6}$  of the interest on all then outstanding bonds payable from net revenues on the next succeeding principal and interest payment dues, until the amount so credited shall equal the principal payable during the next succeeding 12 calendar months and the interest payable during the next succeeding six calendar months. There shall similarly be credited to the Account any amount necessary to pay the bank fiscal agency charges for paying principal and interest on the bonds as the same become payable. The town shall, from the sums deposited in the Sinking Fund and credited



to the Bond and Interest Account, remit promptly to the registered owner or to the bank fiscal agency sufficient monies to pay the principal and interest on their due dates together with the amount of bank fiscal agency charges.

(C) Debt Service Reserve Account.

(1) Monies currently held as a reserve for the refunded bonds and not a part of the issuer's funds shall be credited to and become a part of the Debt Service Reserve Account created as of the date

of the refunding of the refunded bonds. The town shall deposit as a reserve for the refunding bonds, into the Debt Service Reserve Account, either net revenues of the works on a monthly basis or funds of the works now on hand so that the reserve equals but does not exceed the least of:

- (a) The maximum annual debt service on the refunding bonds;
- (b) One-hundred twenty-five percent of average annual debt service on the refunding bonds; or
- (c) Ten percent of the proceeds of the refunding bonds plus a minor portion as defined in the Internal Revenue Code of 1986 (the “Reserve Requirement”).

(2) If the town deposits net revenues into the Debt Service Reserve Account on a monthly basis, the amount of each monthly deposit shall be equal in amount and sufficient to accumulate the reserve requirement within five years from the date of delivery of the refunding bonds. The balance in the Debt Service Reserve Account shall never exceed the reserve requirement. The Debt Service Reserve Account shall constitute the margin for safety and as protection against default in the payment of principal and interest on the refunding bonds and the monies in the Reserve Account shall be used to pay current principal and interest on the refunding bonds to the extent that monies in the Bond and Interest Account are insufficient for that purpose. Any deficiency in the balance maintained in the Debt Service Reserve Account shall be promptly made up from the next available net revenue remaining after credits into the Bond and Interest Account. If monies in the Debt Service Reserve Account are transferred to the Bond and Interest Account to pay principal and interest on refunding bonds, then this depletion of the balance in the Debt Service Reserve Account shall be made up from the next available net revenues after the credits into the Bond and Interest Account. Any monies in the Debt Service Reserve Account in excess of the reserve requirement may be used for the prepayment of installments of principal on the then outstanding bonds which are then callable or prepayable or for the purchase of outstanding bonds or installments of principal of fully registered refunding bonds and accrued interest or shall be transferred to the Sewage Works Improvement Fund.

(‘97 Code, § 9-117) (Ord. 3-29-89(A), passed 4-27-89; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.23 SEWAGE WORKS IMPROVEMENT FUND.**

After meeting the requirements of the Operation and Maintenance Fund and the Sinking Fund, any excess revenues may be transferred or credited to a fund designated the “Sewage Works Improvement Fund,” and this Fund shall be used for improvements, replacement, additions and extensions of the sewage works. Monies

in the Sewage Works Improvement Fund shall be transferred to the Sinking Fund if necessary to prevent a default in the payment of principal and interest on the outstanding bonds or, if necessary, to eliminate any deficiencies in credits to or minimum balance in the Debt Service Reserve Account of the Sinking Fund or may be transferred to the Operation and Maintenance Fund to meet unforeseen contingencies in the operation and maintenance of the sewage works.  
(‘97 Code, § 9-118) (Ord. 3-29-89(A), passed 4-27-89; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 50.24 INVESTMENT OF FUNDS.**

The Sinking Fund shall be deposited in and maintained as a separate account or accounts from all other accounts of the town. The Operation and Maintenance Fund and the Sewage Works Improvement Fund may be maintained in a single account, or accounts, but the account or accounts shall likewise be maintained separate and apart from all other accounts of the town and apart from the Sinking Fund Account or accounts. All monies deposited in the accounts shall be deposited, held and secured as a public fund in accordance with the public depository laws of the state, provided that these monies may be invested in obligations in accordance with the applicable laws, including particularly, I.C. 5-13-19, as amended or supplemented. The income from the investment shall become a part of the funds invested and shall be used only as provided in this subchapter.

('97 Code, § 9-119) (Ord. 3-29-89(A), passed 4-27-89; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 50.25 WATERWORKS AND CONSTRUCTION FUND.**

Deposits for the water funds of the town shall be deposited in a special account or accounts to be designated as Town of Bristol Waterworks Construction Account. All funds so deposited in the special funds or accounts shall be deposited, held and secured or invested in accordance with the laws of the state relating to the depositing, holding and securing or investing of public funds, including particularly Chapter 9 of the Acts of 1945, as amended. The funds in the special funds or accounts shall be expended only for the purpose of paying the cost of construction of the municipal water works hereinbefore referred to, the incidental expenses incurred in connection therewith or in connection with the issuance of the bonds herein authorized, including necessary legal and engineering expenses. Any balance remaining after completion of the construction and acceptance of the waterworks shall be placed in the Waterworks Bond and Interest Sinking Fund Account hereinafter referred to.

('97 Code, § 9-120) (Ord. 4-5-1966, passed 4-5-66; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 50.26 WATERWORKS UTILITY FUND.**

(A) All of the net earnings of the town's waterworks shall be and are irrevocably pledged to the payment of the principal of and interest on the bonds issued pursuant to the provisions of this subchapter and any bonds hereafter issued ranking on a parity therewith to the extent necessary for that purpose. The term "net earnings" as used in this section shall be construed to mean the revenues remaining after the reasonable cost of operation and maintenance has been paid.

(B) Beginning as of the date of issuance of the bonds herein authorized, all income and revenues derived thereafter from the operation of the waterworks shall be segregated and kept separate and apart from all other funds of the town and shall be deposited in a fund to be known as the "Town of Bristol, Waterworks Utility Fund." The Fund shall be deposited in lawful depositories of the town and continuously held and secured or invested as provided by the last of the state relating to the depositing,

securing and holding or investing of public funds. The Funds shall be used solely for the purpose of paying the cost of operation and maintenance of the waterworks, the payment of the principal of and interest on all bonds which by their terms are payable from the revenues of the waterworks, the making good of depreciation in the waterworks and the construction of improvements, betterments, additions and extensions to the waterworks. No part of the monies in the Fund shall be transferred to the General Fund or other funds of the town unless and until all bonds payable from the revenues of the waterworks has been redeemed or retired. The sums in the Waterworks Utility Fund shall be set aside, deposited, allocated and disbursed through the accounts of the Fund as follows.

(‘97 Code, § 9-121) (Ord. 4-5-1966, passed 4-5-66; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.27 OPERATION AND MAINTENANCE ACCOUNT.**

There is created an account to be known as the “Operation and Maintenance Account” in which shall be deposited all receipts and revenues of the waterworks as received. Except as hereinafter provided, the funds in the account shall be used for the purpose only of paying the reasonable costs of operation and maintenance of the waterworks monthly as the same accrue and become payable. The costs of operation and maintenance shall only be those incurred in the normal operation of the waterworks as it exists on a day to day basis and shall not include the cost of replacements, improvements, betterments, additions, extensions or other capital improvements or the making good of depreciation. At the close of each calendar month, there shall be retained in the account only a sum sufficient to pay the estimated cost of operation and maintenance for the then next succeeding calendar month.

(‘97 Code, § 9-122) (Ord. 4-5-1966, passed 4-5-66; Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.28 WATERWORKS BOND AND INTEREST SINKING FUND ACCOUNT.**

There is created an account to be known as the “Waterworks Bond and Interest Sinking Fund Account” from which the principal of and interest on all bonds payable from the revenues of the waterworks shall be paid. On the last day of each calendar month there shall be paid into the account from the Operation and Maintenance Account all revenues remaining after the setting aside in the Operation and Maintenance Account of the estimated operation and maintenance requirements for the next succeeding calendar month. All of the said remaining revenues shall be so deposited in the Waterworks Bond and Interest Sinking Fund Account until the account contains a sufficient amount to pay the interest and the principal of all outstanding bonds which will be due and payable on the then next succeeding principal payment date. In no event shall the amounts set aside in the Waterworks

Bond and Interest Sinking Fund Account be less than sufficient to meet the payment of the principal of and interest on said bonds as the same become due and payable. ('97 Code, § 9-123) (Ord. 4-5-1966, passed 4-5-66; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 50.29 SPECIAL WATERWORKS UTILITY FUND ACCOUNT.**

(A) There is created an account to be known as the “Special Waterworks Utility Fund Account” into which there shall be paid on the last day of each calendar month all of the revenues remaining after the reserving in the Operation and Maintenance Account of an amount sufficient to pay the estimated cost of operation and maintenance for the then next succeeding month and making the payments required to be made into the Waterworks Bond and Interest Sinking Fund Account.

(B) The monies in the Special Waterworks Utility Fund Account may be expended in making good depreciation in the waterworks construction of improvements, betterments, additions and extensions to the waterworks or may be applied in the purchase or redemption of bonds payable from the revenues of the waterworks prior to maturity; provided however, that no such expenditures for such purposes shall be made from the Special Waterworks Utility Fund Account so as to reduce the balance therein below a sum equal to the average annual principal and interest requirements on the then outstanding bonds payable from the revenues of the waterworks (herein sometimes referred to as “minimum reserve”), unless the expenditures be required for the continued operation of the waterworks or to prevent a default in the payment of the interest on and principal of bonds payable from the revenues of the waterworks or to pay the actual cost of connecting new customers to existing water distribution mains, it being deemed necessary for the protection of the town and the bond holders to maintain and reserve in the Special Waterworks Utility Fund Account for the purpose of assuring against default in the payment of principal or of interest on bonds payable from the revenues of the waterworks.

(C) The monies represented by the minimum balance shall be available solely for the benefit of the bonds payable from the revenues of the waterworks, and the Clerk-Treasurer or proper officers of the Board of Public Works and Safety having custody of the funds of the waterworks shall, if needed to prevent a default in the payment of the interest on or principal of the bonds, transfer to the Waterworks Bond and Interest Sinking Fund Account a sufficient amount of the monies then in the Special Waterworks Utility Fund Account to prevent the default.

(D) In the event of reduction of the funds in the Special Waterworks Utility Fund Account below the minimum reserve hereinbefore specified, then no further expenditures from the Fund shall be made for making good depreciation, construction of improvements, betterments, additions and extensions or purchase or redemption of bonds prior to maturity until the Fund shall have again attained the minimum reserve.

(E) In the event the Special Waterworks Utility Fund Account shall exceed the minimum reserve, then the Clerk-Treasurer or officers of the Town Council having custody of the waterworks funds may apply any or all of the funds in excess of the minimum reserve to the purchase or call for redemption of outstanding bonds



payable from the revenues of the waterworks at a price not exceeding the then applicable redemption price. All bonds so purchased or redeemed by call shall immediately be canceled and shall not thereafter be reissued. Any accumulation in the Special Waterworks Utility Fund Account may also be invested in direct obligations of the United States Government to the extent permitted by law. ('97 Code, § 9-124) (Ord. 4-5-1966, passed 4-5-66; Ord. 10-21-99(A), passed 10-21-99)

**§ 50.30 METER DEPOSIT FUND.**

Meter deposits shall be deposited and maintained in a separate fund. All monies deposited in this account shall be deposited, held, and secured as a public fund. Earnings, if any, on funds invested from this account shall be the property of the Town of Bristol Water Utility. Records shall be maintained of the names from whom the original deposits were received. In accordance with procedure provided by the state law and town ordinances, the Clerk/Treasurer may use a customer's deposit to refund deposits to customers, pay delinquent water bills, and/or apply towards new meter deposits, turn on or shut-off fees, or any other amount owed by Bristol's Town Water Utilities by the customer.  
(Ord. 8-19-04, passed 8-19-04)

**ENFORCEMENT REMEDIES****§ 50.40 NOTIFICATION OF VIOLATION.**

When the Director finds that a user has violated, or continues to violate, any provision of this title or order issued hereunder, the Director may serve upon that user a written notice of violation. Within ten days of the receipt of this notice, the user shall submit to the Director an explanation of the violation and a plan for the satisfactory correction and prevention thereof to include specific required actions shall be submitted by the user to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Director to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.  
(Ord. 10-21-99(A), passed 10-21-99)

**§ 50.41 COMPLIANCE ORDERS.**

When the Director finds that a user has violated, or continues to violate, any provision of this title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director 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. 10-21-99(A), passed 10-21-99)

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## Utilities Generally

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### § 50.42 CEASE AND DESIST ORDERS.

(A) When the Director finds that a user has violated, or continues to violate, any provision of this title, or order issued hereunder, or that the user's past violations are likely to recur, the Director 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.

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(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. 10-21-99(A), passed 10-21-99)

**§ 50.43 ADMINISTRATIVE FINES.**

(A) When the Director finds that a user has violated, or continues to violate, any provision of this title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may request the Town Manager to fine the user in an amount not to exceed \$2,500. The fines shall be assessed on a per violation, per day basis.

(B) Unpaid charges, fines and penalties shall, after 30 calendar days, be assessed an additional penalty of 12% of the unpaid balance and interest shall accrue thereafter at a rate of 1% per month. A lien against the user's property may be sought for unpaid charges, fines and penalties.

(C) Users desiring to dispute the fines shall file a written request for the Town Manager to reconsider the fine along with full payment of the fine amount within three days of being notified of the fine. In the event the request for reconsideration is successful, the payment shall be returned to the user.

(D) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.  
(‘97 Code, § 9-163) (Ord. 10-21-99(A), passed 10-21-99)

**§ 50.44 EMERGENCY SUSPENSIONS.**

(A) The Director may immediately suspend a user's discharge, after informal notice to the user, whenever the suspension is necessary to stop an actual or threatened discharge that reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend a user's discharge, after notice and opportunity to respond, which 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 Director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Director that the period of

endangerment has passed, unless the termination proceedings in § 50.45 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 Director prior to the date of any show cause or termination under § 50.45.

(B) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.  
(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.45 TERMINATION OF DISCHARGE.**

(A) In addition to the provisions in § 52.101, 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 §§ 52.006 and 52.007 or the prohibited discharge standards found in §§ 52.004 and 52.008.

(B) The user will be notified of the proposed termination of its discharge. When possible, notice will be mailed by first class mail to the billing address for the user 14 days before the effective date of the termination. The user must obtain a court order prohibiting the action if the user disputes the right of the town to take the action. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the user.  
(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.46 INJUNCTIVE RELIEF.**

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

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.47 CIVIL PENALTIES.**

(A) A user who has violated, or continues to violate, any provision of this title, a wastewater discharge permit, 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. Each day the violation occurs is to be considered a separate offense. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(B) The Director may recover reasonable attorney's fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the town as well as imposing the penalty described in division (A) of this section.

(C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user and any other factor as justice requires.

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

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.48 REMEDIES NONEXCLUSIVE.**

The remedies provided for in this title are not exclusive. The 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 town's enforcement response plan. However, the Director may take other action against any user when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 50.49 PERFORMANCE BONDS.**

The Director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this title, a previous wastewater discharge permit or order issued

hereunder or any other pretreatment standard or requirement, unless the user first files a satisfactory bond, payable to the town, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance. (Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.50 LIABILITY INSURANCE.**

The Director may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this title, 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. 10-21-99(A), passed 10-21-99)

#### **§ 50.51 WATER SUPPLY SEVERANCE.**

Whenever a user has violated or continues to violate any provision of this title, 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.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.52 PUBLIC NUISANCES.**

A violation of any provision of this title, 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 Director. Any person(s) creating a public nuisance shall be subject to the provisions of this code governing such nuisances, including reimbursing the town for any costs incurred in removing, abating or remedying the nuisances.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 50.53 INFORMANT REWARDS.**

The Director may pay up to \$500 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty levied against the user, the Director may disperse up to 10% of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$500.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 50.54 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 Director.

(Ord. 10-21-99(A), passed 10-21-99)



## CHAPTER 51: WATERWORKS

### Section

- 51.01 Metered water rates and charges
- 51.02 Minimum water charges
- 51.03 Tapping fees and meter deposit
- 51.04 Hydrant rental
- 51.05 Monthly billing charts for 40,000 gallons or more
- 51.06 Rates for sprinkler systems and public drinking fountains
- 51.07 Base winter estimate for water billings
- 51.08 Sprinkling rates
- 51.09 Collection or deferred payment charge
- 51.10 Shut-off and turn-on charge
- 51.11 Temporary users
- 51.12 Local or lateral water mains or lines

### § 51.01 METERED WATER RATES AND CHARGES.

There shall be and there are established for the use of and the service rendered by the waterworks systems of the town rates and charges based on the use of water supplied by the waterworks system determined by the Town Council and adopted herein by reference.

<b>Metered rates</b>	<b>Rate per 1,000 gallons effective 1-1-99</b>
For the first 2,000 gallons per month	\$3.74-½
For the next 4,000 gallons per month	3.00
For the next 9,000 gallons per month	2.60
For the next 15,000 gallons per month	2.20
For the next 30,000 gallons per month	1.80
For the next 60,000 gallons per month	1.40
For the next 120,000 gallons per month	1.00

('97 Code, § 9-10) (Ord. 12-11-97(A), passed 12-11-97; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 51.02 MINIMUM WATER CHARGES.**

Each user shall pay a minimum charge in accordance with the size of meter installed for which the user will be entitled to the quantity of water set by the Town Council from time to time.

<b>Minimum Water Charges</b>	
<b>Meter size</b>	<b>Rate per month effective 1-1-99</b>
5/8" or 3/4"	\$7.50
1" meter	12.00
1-1/4" meter	17.50
1-1/2" meter	23.00
2" meter	38.00
3" meter	80.00
4" meter	134.00
6" meter	270.00

('97 Code, § 9-11) (Ord. 12-11-97(A), passed 12-11-97; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 51.03 TAPPING FEES AND METER DEPOSIT.**

(A) A tap charge shall be collected from each customer prior to connection to the water system. The charge shall cover the cost of tapping the main, furnishing and laying service pipe, corporation and stop cocks, service and meter box and installing the meter.

(B) (1) The charge for a 5/8-inch or 3/4-inch meter tap shall be \$400.

(2) The charge for a one-inch and a larger size meter tap shall be the actual construction cost (labor, equipment and material) but in no event less than \$400.

(C) Separate from and in addition to the tapping charges described in this section, subparagraphs (A) and (B), there shall be a requirement that each water utility customer shall pay a \$100 meter deposit at the time water service is turned on. The meter deposit charge shall be due from and charged to the party who shall be responsible for payment of the water bill. In the event water service is disconnected for non-payment of a water bill, but thereafter subsequently reconnected for the same customer, said reconnection shall not occur until an additional meter deposit is paid and any meter deposit previously



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paid by said customer shall be immediately applied to any water bill, shut-off, or turn-on charge due and owing from said customer, with the balance thereof and a full accounting being sent to the last known address of said customer. Meter deposits previously paid in the amount of \$40 rather than the \$100 provided herein are specifically “grandfathered” at said \$40 amount and no additional deposit shall be required from said customers at this time.

(D) All future meter deposits, however, whether water service is requested by existing customers or new customers, shall be at the amount of \$100. Meter deposit charges are separate charges from turn-on and shut-off charges.

(‘97 Code, § 9-12) (Ord. 3-13-80(D), passed 3-13-80; Am. Ord. 10-21-99(A), passed 10-21-99; Am. Ord. 8-19-04, passed 8-19-04; Am. Ord. 8-21-08B, passed 8-21-08)

#### **§ 51.04 HYDRANT RENTAL.**

The fire hydrant rental (public or private) shall hereafter be charged at the rate of \$50 per annum, per hydrant, effective January 1, 2008, a copy of which is on file in the office of the Clerk-Treasurer during regular business hours.

(‘97 Code, § 9-13) (Ord. 12-12-96, passed 12-12-96; Am. Ord. 10-21-99(A), passed 10-21-99; Am. Ord. 9-16-04, passed 9-16-04; Am. Ord. 8-21-08B, passed 8-21-08)

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**§ 51.05 MONTHLY BILLING CHARTS FOR 40,000 GALLONS OR MORE.**

The monthly billing charts for 40,000 gallons or more shall be determined by Town Council from time to time.

**Water Billing Chart**

<b>For over</b>	<b>But not over</b>	<b>Bill computation effective 1-1-99</b>
40,000 gallons	60,000 gallons	\$1.80 per thousand + \$21.90
60,000 gallons	120,000 gallons	\$1.40 per thousand + \$45.90
120,000 gallons		\$1.00 per thousand + \$93.90

Example: 100,000 gallons X \$1.40 = \$140.00  
   + 45.90  
   Billing \$185.90

Sales tax should be computed on the water billing at the rate of 5%.

('97 Code, § 9-14) (Ord. 12-11-97(A), passed 12-11-97; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 51.06 RATES FOR SPRINKLER SYSTEMS AND PUBLIC DRINKING FOUNTAINS.**

(A) The rates for sprinkler systems and public drinking fountains shall be determined by the town.

(B) Until otherwise modified, the rate for building sprinkler systems as determined by the diameter of the service line for the system is as follows:

<b>Size of Line</b>	<b>Semi-Annual Fee</b>
4 inch	\$200 every 6 months
6 inch	\$400 every 6 months
8 inch	\$600 every 6 months

('97 Code, § 9-15) (Ord. 5-21-1966, passed 5-2-66; Am. Ord. 12-11-97(A), passed 12-11-97; Am. Ord. 10-21-99(A), passed 10-21-99; Am. Ord. 2-21-13, passed 2-21-13)

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**§ 51.07 BASE WINTER ESTIMATE FOR WATER BILLINGS.**

In order that the users of the town water utility service will not be penalized for maintaining their water system during the winter months to avoid freezing and further to facilitate the billing by the town to the water customer services, the town establishes a “base winter estimate for billing” (BWCE). The BWCE will be derived for each customer by averaging the last reading in October (payable in November) and the May meter reading (payable in June) to establish the BWCE. The base winter estimate will then be applied for the months of November, December, January, February and March to the water customer user for calculating the customer’s water rate charge for the months of November, December, January, February and March. (‘97 Code, § 9-16) (Ord. 12-11-97(A), passed 12-11-97; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 51.08 SPRINKLING RATES.**

(A) In order that single-family domestic and residential users of sewage service shall not be penalized for sprinkling lawns during the months of June, July, August and September, the billing for sewage service for single-family users for the months of June, July, August and September shall be based upon the water usage for the previous months of December, January, February and March. In the event the water usage for the previous months of December, January, February and March is greater than the water usage for the months of June, July, August and September, then the billing for sewage services shall be computed on the actual water used in the month for which the sewage service bill is being rendered. Domestic and/or residential sewage service as applicable to the sprinkling rate shall apply to each lot, parcel of real estate or building which is occupied and used as a single-family residence.

(B) The sprinkling rate shall not apply to any premises which are partially or wholly used for commercial or industrial purposes. In the event a portion of the premises shall be used for commercial or industrial purposes, the owner shall have the privilege of separating the water service so that the residential portion of the premises is served through a separate meter and in such case the water usage as registered by the water meter serving the portion of the premises used for residential purposes would qualify under the sprinkling rate. (‘97 Code, § 9-17) (Ord. 12-12-74, passed 12-12-74; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 51.09 COLLECTION OR DEFERRED PAYMENT CHARGE.**

(A) All bills for water service shall be rendered monthly and if not paid within 15 days from the due date thereof, as stated in the bills, shall be subject to a collection or deferred payment charge of 10% on the first \$3 and 3% on the excess over \$3. If

the bill is not paid within 45 days from due date, the service shall be disconnected as provided in this section.  
(‘97 Code, § 9-18)

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(B) All bills are due and payable on or before the date set forth on the bill. If, after its due date, any portion of a monthly bill remains unpaid, the following month's bill will be mailed containing a notice that if all of the previous month's bill is not paid within 15 days of the notice date, service will be discontinued for non-payment. Partial payment may be made. However, if all past due amounts shown on the notice are not paid in full with 15 days of the notice date, the disconnect will still occur unless a reprieve has been granted from the disconnect pursuant to paragraph (C) below.

(C) Any customer disputing the correctness of his or her bill shall have a right to a hearing at which time he or she may be represented in person and by counsel or any other person of his or her choosing and may present orally or in writing his or her complaint and contentions to the city official in charge of utility billing. This official shall be authorized to order that the customer's service not be disconnected and shall have the authority to make a final determination of the customer's complaint. Requests for delays or waiver of payment will not be entertained; only questions of proper and correct billing will be considered.

(D) In the absence of payment of the bill rendered or resort to the hearing procedure and the reprieve granted as provided in paragraph (C) above, service will be discontinued at the time specified in the second bill described in paragraph (B), but in no event until at least some portion of the charges has been past due and unpaid for at least 45 days.

(Ord. 5-2-1966, passed 5-2-66; Am. Ord. 10-21-99(A), passed 10-21-99; Am. Ord. 8-21-08B, passed 8-21-08)

#### **§ 51.10 SHUT-OFF AND TURN-ON CHARGE.**

A charge of \$60 shall be imposed for shut-off and turn-on made at the request of the user or for turn-on after shut-off for nonpayment or delinquency in the payment of a bill. All delinquent charges shall be paid before resumption of service will be permitted.

('97 Code, § 9-19) (Ord. 12-12-96, passed 12-12-96; Am. Ord. 10-21-99(A), passed 10-21-99; Am. Ord. 8-21-08B, passed 8-21-08)

#### **§ 51.11 TEMPORARY USERS.**

Water furnished to temporary users, such as contractors, circuses and the like shall be charged for on the basis of the quantity rates as estimated by the Waterworks Director.

('97 Code, § 9-20) (Ord. 5-2-1966, passed 5-2-66; Am. Ord. 10-21-99(A), passed 10-21-99)

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**§ 51.12 LOCAL OR LATERAL WATER MAINS OR LINES.**

A subdivider, developer or other owner or user shall be required to pay for extensions of local and lateral water mains or lines and the local and lateral water mains or lines shall be constructed to the specifications of the town on the streets, rights-of-way or other easements as may be available, and the subdivider, developer or other owner or user shall dedicate the extended local and lateral water mains or lines and appurtenances hereto to the town.

('97 Code, § 9-21) (Ord. 6-8-78(A), passed 7-10-78; Am. Ord. 10-21-99(A), passed 10-21-99)

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## CHAPTER 52: SEWERS

### Section

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- 52.025 Connecting building sewer to private sewage disposal system
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- 52.027 Director to inspect installation
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## **GENERAL PROVISIONS AND REGULATIONS**

### **§ 52.001 PURPOSE AND POLICY.**

(A) This chapter sets forth uniform requirements for users of the publicly owned treatment works for the town 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 cost 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 users of the publicly owned treatment works. This chapter 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. (Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.002 ADMINISTRATION.**

Except as otherwise provided herein, the Director shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other personnel. (Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.003 GENERAL PROHIBITIONS.**

No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater that causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements. (Ord. 10-21-99(A), passed 10-21-99)



**§ 52.004 SPECIFIC PROHIBITIONS.**

No user shall:

(A) 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 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 10.0 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 three inches in any dimension;

(4) Pollutants, including oxygen-demanding pollutants (BOD and the like) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(5) Wastewater having a temperature greater than 140°F (60°C) or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater that causes the temperature at the introduction into the treatment plant to exceed 140°F (60°C);

(6) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;

(7) Pollutants that result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems as defined in the Occupational Safety and Health Act, 29 USC 651;

(8) Trucked or hauled pollutants, except as designated by the Director in accordance with § 52.072;

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

(10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions which consequently imparts color to the treatment plant's effluent thereby

violating the town's NPDES permit;

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

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

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

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

(15) Wastewater causing, alone or in conduction 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) Fats, oils or greases of animal or vegetable origin in concentrations greater than 100 mg/l;

(18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than 5% or any single reading over 10% of the lower explosive limit of the meter.

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

(C) No person shall discharge or cause to be discharged to any sanitary sewer or combined sewer, either directly or indirectly, storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water, sump pump discharges from any exterior origin or unpolluted industrial process water. The town shall require the removal of unpolluted wastewater or treatment effluent if the removal is cost-effective and in the best interest of all users of this facility.

(D) Storm water, surface water, ground water, roof run-off, subsurface drainage, NPDES permitted cooling water and permitted unpolluted industrial process water may be admitted to storm sewers which have adequate capacity for their accommodations. No person shall use such sewers, however, without the specific permission of the Director. No new connection shall be made unless there is capacity available to all downstream sewers.

(E) No person shall place, deposit or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the town any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this chapter and the NPDES permit.

(F) No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this chapter and the NPDES permit.

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

(H) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the town and abutting on any street, alley or right-of-way in which there is now or hereafter located a public sanitary sewer of the town is required at their expense to install suitable toilet facilities in the house or building or on the property and to connect the facilities directly with the proper public sewer in accordance with the provisions of this chapter within no less than 90 days after date of official notice is served upon them by certified mail by the Director notifying them to make the connection, provided that the public sewer is within 300 feet of the owner's property line.  
(Ord. 10-21-99(A), passed 10-21-99; Am. Ord. 5-18-00, passed 5-18-00) Penalty, see § 10.99

#### **§ 52.005 POLLUTANTS.**

Pollutants, substances or wastewater prohibited by § 52.004 must not be processed or stored in such a manner that they could be discharged to the POTW.  
(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.006 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

(A) The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, parts 405-471 are incorporated.

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

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

(D) 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 the EPA when developing the categorical pretreatment

standard.

(E) A user may obtain a net/gross adjustment to a categorical standard in accordance with 40 CFR 403.15.  
(Ord. 10-21-99(A), passed 10-21-99)

#### § 52.007 STATE PRETREATMENT STANDARDS.

State pretreatment standards, 327 I.A.C. Art. 5 Rule 16 and any or all standards promulgated after the date of this chapter are incorporated.  
(Ord. 10-21-99(A), passed 10-21-99)

#### § 52.008 LOCAL LIMITS.

(A) The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

<b>Pollutant</b>	<b>Maximum allowable discharge limit</b>
Ammonia	20 mg/l
Arsenic	0.1 mg/l
Benzene	2.13 mg/l
Beryllium	2.0 mg/l
BOD <sub>5</sub>	200 mg/l
Cadmium	0.7 mg/l
Chromium, total	1.0 mg/l
Copper	0.7 mg/l
Cyanide	0.4 mg/l
Lead	0.5 mg/l
Mercury	0.10 mg/l
Nickel	2.0 mg/l

<b>Pollutant</b>	<b>Maximum allowable discharge limit</b>
Oil and grease	100 mg/l
Phosphorus	10 mg/l
Selenium	0.1 mg/l
Silver	0.3 mg/l
Total phenols (This compound by itself or in combination with any other organic priority pollutants shall not exceed 2.13 mg/l)	2.13 mg/l
Total suspended solids	200 mg/l
1, 1, 1 trichloroethane (This compound by itself or in combination with any other organic priority pollutants shall not exceed 2.13 mg/l)	2.13 mg/l
Trichloroethylene (This compound by itself or in combination with any other organic priority pollutants shall not exceed 2.13 mg/l)	2.13 mg/l
Zinc	2.0 mg/l

(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 Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.  
(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.009 RIGHT OF REVISION.**

The town reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.  
(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.010 DILUTION.**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge



limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.011 INDUSTRIAL WASTES.**

No statement contained in this section shall be construed as preventing any special agreement or arrangement between the town and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the town for treatment, subject to payment therefor, by the industrial concern.

('97 Code, § 9-67) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.012 DESTROYING OR TAMPERING WITH MUNICIPAL SEWAGE WORKS EQUIPMENT.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface or tamper with any structure, appurtenance or equipment which is a part of the municipal sewage works. Any person violating this section shall be subject to immediate arrest under charge or disorderly conduct.

('97 Code, § 9-68) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99) Penalty, see § 10.99

### **PRIVATE SEWAGE DISPOSAL**

#### **§ 52.025 CONNECTING BUILDING SEWER TO PRIVATE SEWAGE DISPOSAL SYSTEM.**

Where a public sanitary or combined sewer is not available under the provisions of § 52.004, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this chapter.

('97 Code, § 9-75) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.026 WRITTEN PERMIT TO BE OBTAINED; APPLICATION; INSPECTION FEE.**

Before commencement of construction of a private sewage disposal system, the

owner shall first obtain a written permit signed by the Director. The application for the permit shall be made on a form

furnished by the town which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the Director. A permit and inspection fee of \$10 shall be paid to the town at the time the application is filed.

('97 Code, § 9-76) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.027 DIRECTOR TO INSPECT INSTALLATION.**

A permit for a private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Director. He or she shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Director when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt or notice by the Director.

('97 Code, § 9-77) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.028 COMPLIANCE WITH STATE BOARD OF HEALTH.**

The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Board of Health. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is less than 15,000 square feet. No septic tank or cesspool shall be permitted to discharge into any natural outlet.

('97 Code, § 9-78) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99) Penalty, see § 10.99

#### **§ 52.029 CONNECTING PRIVATE SEWAGE DISPOSAL SYSTEM TO PUBLIC SEWER.**

At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in § 52.028, a direct connection shall be made to the public sewer in compliance with this chapter, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

('97 Code, § 9-79) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99) Penalty, see § 10.99

#### **§ 52.030 MAINTENANCE OF PRIVATE SEWAGE DISPOSAL FACILITIES.**

The owner shall operate and maintain the private sewage disposal facilities in a

sanitary manner at all times at no expense to the town.  
(‘97 Code, § 9-80) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A),  
passed 10-21-99)

**§ 52.031 NONINTERFERENCE WITH ADDITIONAL REQUIREMENTS.**

No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the Health Officer.  
(‘97 Code, § 9-81) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.032 CONNECTING BUILDING SEWER TO PUBLIC SEWER.**

When a public sewer becomes available, the building sewer shall be connected to the sewer within 60 days and the private sewage disposal system shall be cleaned of sludge and filled with clean bank run gravel or dirt.  
(‘97 Code, § 9-82) (Ord. 6-30-73(C), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

**CONSTRUCTION OF SEWERS AND APPURTENANCES****§ 52.045 ALTERING PUBLIC SEWER.**

No unauthorized person shall uncover, make any connections with or opening into, use, alter or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Clerk- Treasurer.  
(Ord. 10-21-99(A), passed 10-21-99) Penalty, see § 10.99

**§ 52.046 SEWER PERMITS.**

(A) There shall be two classes of building sewer permits:

- (1) For residential and commercial service; and
- (2) For service to establishments producing industrial wastes.

(B) In either case, the owner or their representative shall make application on a form furnished by the town. The permit application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Inspector. A permit and inspection fee of \$20 for a residential or commercial building sewer and \$50 for an industrial building sewer permit shall be paid to the Clerk-Treasurer at the time application is filed.  
(Ord. 10-21-99(A), passed 10-21-99)



**§ 52.047 INSTALLATION AND CONNECTION EXPENSES.**

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

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.048 SEPARATE SEWER FOR EVERY BUILDING.**

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

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.049 OLD BUILDING SEWERS.**

Old building sewers may be used in connection with new buildings only when they are found, on examination by the authorized representative of the town, to meet all requirements of this chapter and corresponding permit and inspection fees.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.050 SIZE, SLOPE AND ALIGNMENT.**

The size, slope, alignment, materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, jointly testing, infiltration/exfiltration testing and back filling the trench shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town. In the absence of code provisions, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 and 10 States Standards or any specifications as required by IDEM shall apply.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.051 ELEVATION OF BUILDING SEWER.**

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

building drain shall be lifted by an accepted means and discharged to the building sewer.

(Ord. 10-21-99(A), passed 10-21-99)



**§ 52.052 PUBLIC SANITARY SEWER CONNECTIONS.**

No person shall make connection of roof downspouts, exterior foundation drains, areaway drains or other sources of surface run-off or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer. All interior structurally generated wastes or waters, directly or indirectly generated, will be discharged into the sanitary sewer and all exterior generated waters will remain outside and will not be discharged to the sanitary sewer. All roof drains on large buildings will be allowed to enter the facility but must be demonstrated to the satisfaction of the Director not to be discharged into the sanitary sewer.

(Ord. 10-21-99(A), passed 10-21-99) Penalty, see § 10.99

**§ 52.053 CONNECTION OF BUILDING SEWER.**

The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the town or the procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 and 10 States Standards. All such connections shall be made gas tight and water tight.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.054 SUPERVISION OF CONNECTIONS.**

The applicant for the building sewer into the public sewer shall notify the town when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the town or their representatives during their normal business hours. All connections will be left open and uncovered until the town's representative can finish their inspection. The inspection shall be made within the next working day or within 24 hours of the receipt of notice by the Director.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.055 BUILDING EXCAVATIONS.**

All excavations for building sewer installation must be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways and other public property disturbed in the course of the work shall be restored to their original condition and to the satisfaction of the town.

(Ord. 10-21-99(A), passed 10-21-99)



## PRETREATMENT OF WASTEWATER

### § 52.070 PRETREATMENT FACILITIES.

Users must 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 §§ 52.003 and 52.004 within the time limitations specified by the EPA, the state or the Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing the facilities and operating procedures shall be submitted to the Director and IDEM for review 180 days prior to construction and approved by the Director and IDEM before construction of the facility. The review of the plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facilities as necessary to produce a discharge acceptable to the town under the provisions of this chapter.

(Ord. 10-21-99(A), passed 10-21-99)

### § 52.071 ADDITIONAL PRETREATMENT MEASURES.

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

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

(C) Grease, oil and sand interceptors must be provided when, in the opinion of the Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil and sand, except that the interceptors shall not be required for residential lasers. All interception units shall be of type and capacity approved by the Director and shall be so located to be easily accessible for cleaning and inspection. The 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.

(Ord. 10-21-99(A), passed 10-21-99)



**§ 52.072 HAULED WASTEWATER.**

(A) Septic tank waste may not be introduced into the POTW at any location. This prohibition includes any wastes collected from portable toilets.

(B) Commercial and industrial waste haulers may not discharge into the POTW at any location.

(C) The Director may, in an emergency situation as determined by the Director to exist, allow another municipality to introduce waste into the POTW at a designated location. The contributing municipality will pay an appropriate charge as determined by the Director. The contribution can only occur on an emergency basis and must not be allowed by the Director on a regular basis.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.073 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.**

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

(B) Alternatively, the Director may develop such a plan for any user. 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 Director of any accidental or slug discharge, as required by § 52.120; 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, measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.074 SAMPLE MANHOLE REQUIREMENTS.**

(A) When required and deemed necessary by the Director, the owner(s) of any property serviced by the town's sewer system shall install a suitable control manhole together with the necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of

the wastes. The manhole, when required, shall be maintained by the owner(s) so as to be safe and accessible at all times. The sample manhole shall be inspected and approved by the Director.

(B) The sample manhole shall be water tight, sealed at all joints, seams, risers and at the frame. The sample manhole shall be a minimum of four feet in diameter and five feet in height and shall have only one sewer line through the bottom with the top half cut out. Minimum pipe diameter through the manhole shall be six inches. The floor of the manhole must drain down into the pipe as it passes through the manhole.

(C) Agents of the town, IDEM and the EPA shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling and testing at all times.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.075 TENANT RESPONSIBILITY.**

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this chapter.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.076 PRETREATMENT CHARGES AND FEES.**

(A) The town may adopt reasonable charges and fees for reimbursement of costs of setting up and operating the town's pretreatment program, which may include:

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

(2) 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;

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

(4) Other fees as the town may deem necessary to carry out the requirements contained herein.

(B) 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. 10-21-99(A), passed 10-21-99)



**§ 52.077 INDUSTRIAL USER INVENTORY.**

(A) In order to implement general pretreatment regulations, an industrial use survey shall be conducted to identify all current user's volume and pollutant characteristics. From this information, site visits and inspections, user status and necessity for a discharge permit will be determined. To maintain and update the industrial users in the town, the following methods will be used:

- (1) Chamber of Commerce lists;
- (2) Previous survey lists;
- (3) Sewer connection permits;
- (4) Contacts from potential industries;
- (5) Field inspections;
- (6) Industrial discharge permit applications; and
- (7) Monthly discharge reports.

(B) New industries subject to pretreatment requirements will be issued a wastewater discharge permit and added to the master list of regulated industries and categorized either categorical or noncategorical by volume and nature of discharge. This list is maintained and reviewed and will be part of the annual pretreatment compliance report to IDEM.  
(Ord. 10-21-99(A), passed 10-21-99)

**WASTEWATER DISCHARGE PERMIT****§ 52.090 WASTEWATER ANALYSIS.**

When requested by the Director, a user must submit information on the nature and characteristics of its wastewater 180 days prior to commencing their discharge and/or beginning construction. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information.  
(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.091 WASTEWATER DISCHARGE PERMIT REQUIREMENTS.**

(A) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Director, except that a significant industrial user that has filed a timely application pursuant to § 52.072 may continue to discharge for the time period specified therein.

(B) The Director may require other users to obtain wastewater discharge permits as is 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 this title. 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. 10-21-99(A), passed 10-21-99)

**§ 52.092 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 the discharges in the future shall, within 180 days after the date, apply to the Director for a wastewater discharge permit in accordance with § 52.094 and shall not cause or allow discharges to the POTW to continue after 180 days of the effective date of this chapter, except in accordance with a wastewater discharge permit issued by the Director.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.093 NEW CONNECTIONS.**

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain the permit prior to the beginning or recommencing of the discharge. An application for this wastewater discharge permit, in accordance with § 52.094, must be filed at least 180 days prior to the date upon which any discharge will begin or recommence.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.094 PERMIT APPLICATION CONTENTS.**

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

application the following information:

- (1) All information required by § 52.115;

(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;

(3) Number and type of employees, hours of operation and proposed or actual hours of operation both now and in the future;

(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 Director 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. 10-21-99(A), passed 10-21-99)

#### **§ 52.095 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. 10-21-99(A), passed 10-21-99)

**§ 52.096 PERMIT DECISIONS.**

The Director will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the Director will

determine whether or not to issue a wastewater discharge permit. The Director may deny any application for a wastewater discharge permit.  
(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.097 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. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.098 PERMIT CONTENTS.**

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

(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 the town in accordance with § 52.100 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards;

(4) Self-monitoring, sampling, reporting, notification and record-keeping 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. The 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) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass or other measure of identified wastewater pollutants or properties;

(3) 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;

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

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

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

(7) 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;

(8) Compliance schedules for meeting permit conditions; and

(9) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter and state and federal laws, rules and regulations. (Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.099 PERMIT MODIFICATION.**

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

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

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

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



(D) Information indicating that the permitted discharge poses a threat to the 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. 10-21-99(A), passed 10-21-99)

#### **§ 52.100 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 Director and the Director approves the wastewater discharge permit transfer.

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

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.101 PERMIT REVOCATION.**

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

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

(2) Failure to provide prior notification to the Director of changed conditions

pursuant to § 52.119;

- (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 Director timely access to the facility premises and records;
- (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 advance notice of the transfer of business ownership of a permitted facility;
- (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. 10-21-99(A), passed 10-21-99)

#### **§ 52.102 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 §§ 52.094 and 52.095, a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.103 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.**

(A) If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Director shall enter into an intermunicipal agreement with the contributing municipality.

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

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (2) An inventory of all users located within the contributing municipality that are discharging to the POTW; and
- (3) Such other information as the Director 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 municipality 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 § 52.008. The requirement shall specify that ordinance and limits must be revised as necessary to reflect changes made to this chapter or local limits;
- (2) A requirement for the contributing municipality 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 Director and which of these activities will be conducted jointly by the contributing municipality and the Director;
- (4) A requirement for the contributing municipality to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the Director access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Director; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. 10-21-99(A), passed 10-21-99)

**REPORTING REQUIREMENTS****§ 52.115 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 users, who by reason of their discharge are subject to the standards currently discharging to or scheduled to discharge to the POTW, shall submit to the Director a report which contains the information listed in division (B) of this section. 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 Director 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 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 the 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 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 § 52.119.

(c) Sampling must be performed in accordance with procedures set out in § 52.125.

(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 § 52.116.

(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with § 52.095.  
(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.116 COMPLIANCE SCHEDULE PROGRESS REPORTS.**

The following conditions shall apply to the compliance schedule required by § 52.115(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 and beginning and conducting routine operation);

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

(C) The user shall submit a progress report to the Director no later than 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 months elapse between the progress reports to the Director.  
(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.117 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 the pretreatment standards and requirements shall submit to the Director a report containing the information described in § 52.115(B) (4) through (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 § 52.095.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.118 PERIODIC COMPLIANCE REPORTS.**

(A) All significant industrial users shall, at a frequency determined by the Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 52.095.

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

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director, using the procedures prescribed in § 52.125, the results of this monitoring shall be included in the report. (Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.119 REPORTS OF CHANGED CONDITIONS.**

(A) Each user must notify the 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 60 days before the change.

(B) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 52.094.

(C) The Director may issue a wastewater discharge permit under § 52.096 or

modify an existing wastewater discharge permit under § 52.099 in response to changed conditions or anticipated changed conditions.

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

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.120 REPORTS OF POTENTIAL PROBLEMS.**

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following the discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. The 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 the 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) Failure to notify the town of potential problems discharges shall be deemed a separate violation of this chapter.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.121 REPORTS FROM UNPERMITTED USERS.**

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

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.122 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.**

If sampling performed by a user indicates a violation, the user must notify the Director within 24 hours of becoming aware of the violation. The user shall also

repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the

violation. The user is not required to resample if the Director monitors at the user's facility at least once a month, or if the Director samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. 10-21-99(A), passed 10-21-99)

### **§ 52.123 NOTIFICATION OF DISCHARGE OF HAZARDOUS WASTES.**

(A) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and state hazardous waste authorities, 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. The 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 the 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 the constituents in the waste stream discharged during that calendar month and an estimation of the mass of constituents in the waste stream 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 section need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 52.119. 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 §§ 52.115, 52.117 and 52.118.

(B) Discharges 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 nonacute 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, 42 USC 6921 identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, the EPA Regional Waste Management Waste Division Director and state hazardous waste authorities of the discharge of the substances within 90 days of the effective date of the 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. 10-21-99(A), passed 10-21-99)

#### **§ 52.124 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 the EPA.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.125 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 Director may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, hexavalent chromium and volatile organic compounds must be obtained using grab collection techniques.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.126 TIMING.**

Written reports 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.

(Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.127 DETERMINATION OF NONCOMPLIANCE.**

The Director may use a grab sample(s) to determine noncompliance with pretreatment standards.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.128 RECORD KEEPING.**

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 the 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 the 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 Director.

(Ord. 10-21-99(A), passed 10-21-99)

**§ 52.129 RIGHT OF ENTRY; INSPECTION AND SAMPLING.**

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

(B) (1) Where a user has security measures in force that require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director will be permitted to enter without delay for the purposes of performing specific responsibilities.

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

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

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

clearing such access shall be born by the user.

(5) Unreasonable delays in allowing the Director access to the user's premises shall be a violation of this chapter.

(Ord. 10-21-99(A), passed 10-21-99)

## RATES AND CHARGES

### § 52.140 OWNER'S RESPONSIBILITY FOR PAYMENT.

For the use of and the service rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected with the town's sanitary sewer system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sanitary sewer system of the town, which rates and charges shall be payable as hereinafter provided and shall be in an amount determined by the Town Council.

('97 Code, § 9-28) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

### § 52.141 BASIS OF CHARGES.

Except as herein otherwise provided, sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use.

('97 Code, § 9-29) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

### § 52.142 SEWAGE RATES SCHEDULE.

For sewage customers who are metered customers of the municipal water system and industrial customers with private supply of water, the charge for sewage service shall be based upon the quantity of water used and returned to the sewage plant for treatment as determined by the Town Council.

#### Sewer Service Rates

	<b>1999 per 1,000 Gallons</b>
First 2,000 gallons per month	\$8.70
Next 13,000 gallons used per month	7.40
Next 45,000 gallons used per month	6.10
Next 60,000 gallons used per month	4.78
Next 12,000 gallons used per month	3.48

**Sewage Billing**

<b>For over</b>	<b>But not over</b>	<b>Bill computation—1999</b>
40,000 gallons	60,000 gallons	\$6.10 per thousand + \$22.10
60,000 gallons	120,000 gallons	\$4.78 per thousand + \$101.30
120,000 gallons		\$3.48 per thousand + \$257.30

**Minimum Monthly Charge**

	<b>1999</b>
5/8" — 3/4" meter	\$17.40
1" meter	34.80
1-1/4" meter	43.50
1-1/2" meter	72.50
2" meter	116.00
3" meter	203.00
4" meter	348.00
6" meter	797.50

('97 Code, § 9-30) (Ord. 12-11-97(B), passed 12-11-97; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.143 MONTHLY SEWAGE BILLING CHART FOR SEWER ONLY USERS.**

For sewer customers who are not metered water customers, monthly sewage rates shall be as determined by the Town Council from time to time.

('97 Code, § 9-31) (Ord. 12-11-97(B), passed 12-11-97; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.144 SEWAGE RATES FOR ADDITIONAL PROPERTIES.**

The fees established for any class of user or property shall be extended to cover any additional property that is subsequently served and falls within the same class, without any hearing or notice.

('97 Code, § 9-32) (Ord. 3-13-86, passed 3-13-86; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.145 REVIEW OF FEES.**

Fees adopted herein are subject to further change by proper Town Council action.

('97 Code, § 9-33) (Ord. 3-13-86, passed 3-13-86; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.146 REVENUES OF SEWAGE WORKS.**

Fees collected under this subchapter are to be considered revenues of the Bristol Municipal Sewage Works.

('97 Code, § 9-34) (Ord. 3-13-86, passed 3-13-86; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.147 ROLE OF TOWN.**

The quantity of water obtained from sources other than the municipal waterworks and discharged into the public sanitary sewer system may be determined by the town in such manner as the town shall elect, and the sewage treatment service may be billed at the above appropriate rates.

('97 Code, § 9-39) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.148 MEASUREMENTS BY TOWN.**

(A) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, is not a user of water supplied by the town's waterworks and the water used thereon or therein is not measured by a meter, or if measured by a meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town, in order to ascertain the rates or charge, or the owner or other interested party, at the owner's expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurements acceptable to the town for the determination of sewage discharge.

(B) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, is a user of water supplied by the town's waterworks, and (in addition) uses water from another source which is not measured by a water meter, or is measured by a water meter not acceptable to the town, then the amount of water used shall be otherwise measured or determined by the town in



order to ascertain the rates of charge, or the owner or other interested party, at the owner's expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge.

(C) In the event a lot, parcel of real estate or building discharging sanitary sewage, industrial waste, water or other liquids into the town's sanitary sewer system, either directly or indirectly, and it can be

shown to the satisfaction of the town that a portion of water as measured by the water meter or meters does not and cannot enter the sanitary sewer system, then the owner or other interested party shall install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the town for the determination of sewage discharge. ('97 Code, § 9-40) (Ord. 6-30-73, passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.149 ADDITIONAL CHARGES.**

In the event two or more dwelling units such as trailers, apartments or housekeeping rooms discharging sanitary sewage, water or other liquids into the town's sanitary sewer system, either directly or indirectly, are users of water and the quantity of water is measured by a single water meter, then in such case billing shall be for a single service in the manner set out elsewhere herein, except that an additional charge shall be added thereto in the amount of one-half of the minimum charge per month for each dwelling unit over one served through the single water meter. In the case of trailer parks, the number of dwelling units shall be computed and interpreted as the total number of trailers located and installed in the park, plus any other dwelling units served through the meter. A dwelling unit shall be interpreted as a room or rooms or any other space or spaces in which cooking facilities are provided. ('97 Code, § 9-42) (Ord. 6-30-73, passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.150 ADJUSTMENTS FOR FIRE PROTECTION.**

Where a metered water supply is used for fire protection as well as for other uses, the town may in its discretion make adjustments in the minimum charge and in the use charge as may be equitable. ('97 Code, § 9-45) (Ord. 6-30-73, passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.151 SERVICE RATES TO TOWN.**

For the service rendered to the town, the town shall be subject to the same rates and charges provided or to rates and charges established in harmony therewith. ('97 Code, § 9-46) (Ord. 6-30-73, passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.152 CONNECTION CHARGE.**

(A) In the event of connection of property to a local or lateral sewer, truckline or interceptor sewer and such sewer was constructed either in whole or in part with funds provided by the sewage works of the town, and where no contribution to such available sewer line has been made by the present or previous owners of the property to be connected, then the town shall collect from the owner or other user a connection charge which shall be the larger of the following:

- (1) Four-hundred dollars per equivalent family dwelling unit;
- (2) Eight dollars per lineal foot of property abutting such sewer; or
- (3) Eight-hundred dollars per acre of area upon which the structure is to be built.

(B) An equivalent family dwelling unit shall be computed as the expected monthly revenue to be received from the potential customer divided by the average monthly charge to single-family dwelling units. In the event of multiple dwelling units such as mobile homes, churches, apartments and the like, the equivalent dwelling units shall be considered as not less than 30% of a single-family dwelling unit for each dwelling unit served through the single connection.

('97 Code, § 9-49) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.153 LOCAL AND LATERAL SEWERS.**

A subdivider, developer, other owner or user shall be required to extend and pay for local and lateral sewers which shall be constructed to the specifications of the town on such streets, rights-of-way or other easements as may be available and to dedicate the local and lateral sewers and appurtenances thereto to the town.

('97 Code, § 9-50) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.154 MONTHLY BILLINGS.**

The rates and charges shall be prepared and billed by the town monthly as the town may deem appropriate and as determined by the bylaws and regulations of the town as hereinafter provided for and shall be collected in the manner provided by law and ordinance. The rates and charges will be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners, but the billing shall in no sense relieve the owner from liability in the event payment is not made as herein required. The owners of the properties served, which are occupied by tenants, shall have the right to examine the collection records of the town for the purpose of determining whether the rates and charges have been paid by the tenants, provided that the examination shall be in the office in which the records are kept and during the hours that the office is open for business.

('97 Code, § 9-52) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

#### **§ 52.155 BYLAWS AND REGULATIONS.**

The town shall make and enforce such bylaws and regulations as may be deemed necessary for the safe, economic and efficient management of the town sewer system and for the construction and use of house sewers and connections to the sewer system and for the regulation, collection, rebating and refunding of rates and charges.

('97 Code, § 9-53) (Ord. 6-30-73(B), passed 7-5-73; Am. Ord. 10-21-99(A), passed 10-21-99)

**§ 52.156 SURCHARGE FEES FOR CONVENTIONAL POLLUTANTS.**

(A) Surcharge fees (additional charges) based on the strength of sewage and liquid wastes shall be made on the following basis:

(1) For each 10 mg/l or fraction thereof of BOD<sub>5</sub> in excess of 200 mg/l per day, there will be an additional charge of \$.02 per 1,000 gallons of flow.

(2) For each 10 mg/l or fraction thereof of suspended solids in excess of 200 mg/l per day, there will be an additional charge of \$.02 per 1,000 gallons of flow.

(3) For each 1 mg/l or fraction thereof of phosphorus in excess of 10 mg/l per day, there will be an additional charge of \$.0118 per 1,000 gallons of flow.

(4) For each 1 mg/l or fraction thereof of ammonia nitrogen in excess of 20 mg/l per day, there will be an additional charge of \$.0118 per 1,000 gallons of flow.

(B) The surcharge will remain in effect until the user provides proof satisfactory to the Bristol Utility Director that the strength of liquid wastes and sewage being disposed of by user have been reduced to levels that would cause the surcharge to be no longer appropriate. For purposes of calculating the surcharge, the Director may consider either actual measured flowage or estimate using available information. The user shall have burden of showing the surcharge is excessive. (Ord. 10-21-99(A), passed 10-21-99)

## CHAPTER 53: STORM WATER

### Section

#### **Storm Water Management and Regulations**

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- 53.99 Penalty

#### **Cross-reference:**

- Storm Water Utility Fund, see § 35.40
- MS4 Fund, see § 35.42

**STORM WATER MANAGEMENT AND REGULATIONS****§ 53.01 STORM WATER UTILITY ADOPTED BY REFERENCE.**

Pursuant to I.C. 8-1.5-5-1, the town does hereby adopt the storm water utility provisions of I.C. 8-1.5-5 et seq.  
(Ord. 6-15-06A, passed 6-15-06)

**§ 53.02 STORM WATER MANAGEMENT.**

(A) Established. Pursuant to I.C. 8-1.5-5-4.5, the Department of Storm Water Management is hereby established.

(B) Board. The Department of Storm Water Management shall be controlled by the Board of Directors consisting of three Directors. The Directors shall serve a term of three years. However, the initial terms of the Directors shall be one year for the first Director appointed, two years for the second Director appointed, and three years for the third Director appointed so that the Directors shall serve staggered terms. The President of the Town Council shall appoint the Directors, not more than two of whom may be of the same political party. The Town Council President may remove a Director at any time when, in the judgment of the President, it is for the best interest of the Department of Storm Water Management.

(C) Special taxing district. Pursuant to the I.C. 8-1.5-5-5, a special taxing district including all the territory within the corporate boundaries of the town is hereby established.

(D) Governing provisions. Pursuant to the I.C. 8-1.5-5 et seq., as amended from time to time, the Department of Storm Water Management shall be governed accordingly.

(E) Financial administration. The Town Clerk-Treasurer is hereby appointed as the fiscal agent for and authorized to administer the funds of the Department of Storm Water Management.  
(Ord. 6-15-06A, passed 6-15-06)

**§ 53.03 DEFINITIONS.**

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

**BOARD.** Board of the Town Department of Storm Water Management.



**TOWN.** The Town of Bristol, Indiana.

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**DEPARTMENT.** The Department of Storm Water Management.

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

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

**ILLEGAL CONNECTION.** Any drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the MS4 including, but not limited to any conveyances which allow any non-storm water discharge including sewage, process waste water, and wash water to enter the MS4 and any connections to the MS4 from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency or, any drain or conveyance connected from a commercial or industrial land use to the MS4 which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**ILLICIT DISCHARGE.** Any direct or indirect non-storm water discharge to the MS4, except as exempted in other provisions of this subchapter.

**MS4.** The town municipal separate storm sewer system.

**NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES).** A permit issued by the EPA (or by a state under authority delegated pursuant to 33 USC § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**NON-STORM WATER DISCHARGE.** Any discharge to the storm water, storm drainage system, or MS4 that is not composed entirely of storm water.

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

**POLLUTANT.** Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinance and accumulations, so that same may cause or contribute to pollution; floatable; (excluding naturally floatables such as leaves or tree limbs); pesticides, herbicides,

and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

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**STORM WATER DRAINAGE SYSTEM.** All methods, natural or man-made, used for conveying storm water to, through or from a drainage area to include any of the following: conduits and appurtenant features; canals; channels; ditches; streams; culverts; streets; or pumping stations.

**STORM WATER RUNOFF.** The water derived from precipitation falling within a tributary basin, flowing over the surface of the ground or collected in channels or conduits.

(Ord. 6-15-06B, passed 6-15-06)

#### **§ 53.04 PURPOSE AND POLICY.**

(A) Purpose. This subchapter provides for the regulation of storm water by regulating the introduction of pollutants into the Town MS4 in order to comply with the requirements of the NPDES permit process.

(B) Policy. The objectives of this subchapter are as follows:

(1) To conserve the natural hydrologic, hydraulic, water quality and other beneficial functions of watercourses, floodplains and wetlands;

(2) To regulate the contribution of pollutants to the Town MS4 by users;

(3) To prohibit illicit discharges and illegal connections to the Town MS4 and other waters; and

(4) To establish legal authority to carry out all inspection, surveillance, and monitoring procedures necessary to obtain compliance with this subchapter.

(Ord. 6-15-06B, passed 6-15-06)

#### **§ 53.05 CONDUCT REGULATED.**

(A) Improper discharges. No person shall directly or indirectly discharge, cause to be discharged, or permit to be discharged into the Town MS4 any discharge or materials including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards other than storm water.

(B) Permitted activities. Notwithstanding the prohibitions contained in this subchapter, the following activities or conditions are permitted even if such activities or conditions result in any discharge or materials entering the Town MS4:

(1) Water line flushing or other potable water sources;

(2) Landscape irrigation or lawn watering;

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- (3) Diverted stream flows;
- (4) Rising ground water;
- (5) Ground water infiltration to storm drains;
- (6) Uncontaminated pumped ground water;
- (7) Foundation or footing drains (not including active ground water dewatering systems);
- (8) Crawl space pumps;
- (9) Air conditioning condensation;
- (10) Springs;
- (11) Noncommercial washing of vehicles;
- (12) Natural riparian habitat or wetland flows;
- (13) Swimming pools (if dechlorinated);
- (14) Fire fighting activities;
- (15) Discharges specified by the Department as being necessary to protect public health or safety;
- (16) Dye testing (verbal notification to the Department is required before test); and
- (17) Any discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the Federal Environmental Protection Agency or the Indiana Department of Environmental Management.

(C) Improver connections. No person shall directly or indirectly connect to any drain or conveyance or allow the continued connection of any drain or conveyance to the Town MS4 which allows any non-storm water discharge to enter the Town MS4 including but not necessarily limited to any sewage, process waste water, and wash water.

(D) Suspended access. No person may reinstate a Town MS4 access if that access has been suspended pursuant to this subchapter until such time as the suspension is lifted by the Department or a court of competent jurisdiction.

(E) NPDES permits.

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(1) No person subject to an NPDES storm water discharge permit shall allow or permit any discharge to enter the Town MS4 without complete compliance with the terms and conditions of the NPDES permit.

(2) No person subject to an NPDES storm water discharge permit shall unreasonably delay the Department's access to a permitted facility.

(F) Notification of releases. No person who owns or operates any facility or operation, or who is responsible for the emergency response at any facility or operation, shall fail to notify the Department as soon as practicable of any unpermitted release of materials, discharges, or pollutants into storm water, the storm water drainage system, the Town MS4, or any watercourse if such person has information that such release may have occurred.

(G) Response to releases. No person who owns or operates any facility or operation, or who is responsible for the emergency response at any facility or operation, shall fail to take all reasonable steps to ensure the discovery, containment, and cleanup of any unpermitted release.  
(Ord. 6-15-06B, passed 6-15-06)

#### **§ 53.06 MONITORING OF DISCHARGES.**

(A) Inspections. The Department shall be permitted to enter and inspect any facility or property that directly or indirectly discharges waters or materials into the Town MS4 or into any watercourse within the corporate limits of the town, even if only occasionally, as often as may be necessary to determine compliance with this subchapter. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Department.

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

(C) Equipment. The Department shall have the right to set up in any facility or on any property that has a permit to discharge into the Town MS4 such devices as are reasonably necessary to conduct monitoring and/or sampling of the storm water discharge.

(D) Monitoring. The Department has the right to require the discharger to install monitoring equipment and to obtain and analyze storm water samples at any commercial or industrial facility or any property containing more than three



residential units. The facility's or property's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

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(E) Removal of obstructions. Any temporary or permanent obstruction to safe and easy access to the facility or property to be inspected and/or sampled shall be promptly removed by the operator at the written or oral request of the Department and shall not be replaced if so requested. The costs of clearing such access shall be borne by the operator.

(F) Search warrant. If the Department has been refused access to any part of the premises from which storm water is discharged, and the Department is able to demonstrate probable cause to believe that there may be a violation of this subchapter, or that there is a need to inspect and/or sample as part of a routine inspection or sampling program designed to verify compliance with this subchapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the Department may seek issuance of a search warrant from any court of competent jurisdiction within the county.  
(Ord. 6-15-06B, passed 6-15-06)

#### **§ 53.07 NOTIFICATION OF SPILLS.**

(A) Notification of illicit discharges. Any person who owns or operates a facility or operation or who is responsible for the emergency response for a facility or operation shall immediately inform the Department of a known or suspected release of materials which may result in an illicit discharge by contacting the Department if such a release occurs within normal business hours and if not occurring within normal business hours by informing emergency dispatch services.

(B) Response to illicit discharges. As soon as any person who owns or operates a facility or operation or who is responsible for the emergency response for a facility or operation has information of a known or suspected release of materials which may result in an illicit discharge, such person shall take all necessary steps to contain and clean up the release.

(C) Records. If a discharge results in an illicit discharge, and the discharge emanates from a commercial or industrial establishment, the owner or operator of the establishment shall retain written record of the discharge, action taken to contain and clean up the discharge, and actions taken to ensure that such discharge does not occur again.  
(Ord. 6-15-06B, passed 6-15-06)

#### **§ 53.08 ENFORCEMENT.**

(A) Notice of violation.

(1) Whenever the Department finds that a person has committed a prohibited

act or failed to meet the requirements of this subchapter, the Department may take one or more of the following actions:

(a) Notify the person who committed the act or failed to meet the requirements of the subchapter by telephone and request compliance or cessation of the prohibited act.

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(b) Notify the person who committed the act or failed to meet the requirements of this subchapter in writing and order compliance or cessation of the prohibited act.

(c) Enter into an agreed order with the approval of the Board which order may include payment of a fine by the violator.

(d) File a notice of violation before the Board describing the violation of this subchapter found by the Department.

(e) File a complaint in a court of competent jurisdiction seeking a judicial determination that this subchapter has been violated and requesting the imposition of fines and ordering compliance with the violated provisions of this subchapter.

(2) If the Department takes any authorized action and taking such action does not result in compliance with this subchapter, the Department may take any other authorized action to obtain compliance.

(3) The Department may file a complaint with a court of competent jurisdiction to enforce the terms of an agreed order or an order of the Board.

(B) Right to enter premises.

(1) The Department shall have the right to enter any premises for any of the following reasons:

(a) Investigate a suspected spill or discharge into the storm water or Town MS4;

(b) To carry out routine inspections;

(c) To carry out routine sampling; or

(d) To verify compliance with any agreed order, order of the Board, or order of any court of competent jurisdiction.

(e) Entry shall be first attempted by seeking consent of occupant or owner.

(2) If the Department has been refused access to any part of the premises from which storm water is discharged and the Department is able to reasonably demonstrate to a court of competent jurisdiction that there may be a violation of this subsubchapter or that there is a need to inspect or sample as part of the Department's routine inspections and sampling program, the court may grant an order allowing Department access to all relevant parts of a premises.

(3) Any written notice of violation shall be issued upon the responsible party by regular U.S. mail or delivered personally to the responsible party unless the applicable ordinance or statute requires different written notice.

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(C) Board hearing.

(1) Before any Board hearing is held, a party alleged to have violated this subchapter shall receive written notice of the violation including the nature of the violation and a summary of the facts that constitute that violation. In the event of an emergency hearing before the Board, this information may be orally presented to the affected party and the affected party may elect to proceed or the affected party may insist on written notice and delay the hearing. The emergency action taken by the Department shall continue until a hearing can be held.

(2) A party alleged to have violated this subchapter has the right to have an attorney present to cross examine witnesses and has the right to present evidence and have witnesses testify.

(3) A party found to have violated this subchapter has a right to appeal the determination of the Board to a court of competent jurisdiction within 20 days of the action of the Board by filing a verified complaint. The court may affirm, modify, or reverse the action taken by the Board. Any such appeal shall be heard de novo.

(4) Filing a notice of violation is not a prerequisite to filing a complaint alleging a violation before a court of competent jurisdiction.  
(Ord. 6-15-06B, passed 6-15-06) Penalty, see § 53.99

## UNIFORM REQUIREMENTS FOR POST CONSTRUCTION STORM WATER MANAGEMENT

### § 53.20 DEFINITIONS.

(A) Statutory definitions. If any term or provision contained in 327 IAC 15-5-4 or 327 IAC 15-13-5 is used in this subchapter, then the term or provision shall have the same meaning in this subchapter as set forth in 327 IAC 15-5-4 or 327 IAC 15-13-5.

(B) Subchapter definitions. For the purposes of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

**BOARD.** The Board of the Department of Storm Water Management.

**BRISTOL.** The Town of Bristol, Indiana.

**DEPARTMENT.** The Department of Storm Water Management.

**GREATER ELKHART COUNTY MS4.** The area designated by the Indiana Department of Environmental Management as Municipal Separate Storm Sewer System (MS4) entities under 327 IAC 15-13, which is comprised of the City of Elkhart, the City of Goshen, the Town of Bristol, and certain unincorporated areas within the County of Elkhart, Indiana.

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**PERSON.** An individual, partnership, limited partnership, limited liability partnership, corporation, limited liability company, association, company, organization, or governmental entity, whether for-profit or not-for-profit. (Ord. 6-15-06C, passed 6-15-06)

### § 53.21 GENERAL PROVISIONS.

(A) Applicability. Any and all real estate within the town subject to a post construction storm water pollution prevention plan as required by Rule Five at 327 IAC 15-5-6.5(a)(8) shall be governed by the terms and provisions of this subchapter unless exempt under this subchapter.

(B) Exempt real estate. The following activities are exempt from the storm water performance and documentation requirements established by this subchapter:

(1) Agricultural land distributing activities.

(2) Forest harvesting activities.

(3) Construction activities that result in a land disturbance of less than one acre of total land area as determined under Rule Five and are not part of a larger common plan of development or sale.

(4) The following activities provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

(a) Landfills that have been issued a certification of closure under 329 IAC 10;

(b) Coal mining activities permitted under IC 14-34; and

(c) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains the equivalent storm water requirements to those under Rule Five, including expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(5) Repairs to the MS4 deemed necessary by the Department. (Ord. 6-15-06C, passed 6-15-06)

### § 53.22 POST CONSTRUCTION COMPLIANCE REQUIREMENTS.



(A) Performance requirements. For any real estate governed by the terms and provisions of this subchapter, the owner or operator of such real estate shall comply with the following requirements:

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(1) Implementation of all terms and provisions of the post construction storm water pollution prevention plan.

(2) Operation, maintenance, and repair of any and all storm water quality measures and practices identified in the construction plan that were intended to remain in place after construction activities have been completed.

(3) Installation, operation, maintenance, and repair of each post construction storm water quality measure and practice approved as part of the construction plan or the post construction storm water pollution prevention plan.

(4) Inspection no less frequently than annually of all storm water management facilities to document maintenance and repair needs and ensure compliance with the requirements of this subchapter and the accomplishment of its purposes. These needs include removal of silt, litter, and other debris from all catch basins, inlets and drainage pipes, grass cutting and vegetation removal, and necessary replacement of landscape vegetation. Any maintenance needs found must be addressed in a timely manner.

(5) Implementation of all terms and provision of the landscaping plan.

(6) Implementation of all terms and provisions of the erosion and sediment control plan for all construction activities related to implementing any on-site storm water management facilities, measures, and practices.

(B) Documentation requirements. For any real estate governed by the terms and provisions of this subchapter, the owner or operator of such real estate shall comply with the following requirements:

(1) Provide to the Department of Storm Water Management (hereafter "Department") a narrative description of the maintenance guidelines for all post construction storm water quality measures to facilitate their proper long-term function and identify the entity or entities responsible for long-term maintenance. It is an obligation of the project owners and their successors in interest to provide these narrative descriptions to future parties who acquire an interest in any portion of the real estate or who assume responsibility for the operation and maintenance of the post construction storm water quality measures.

(2) Execution of an enforceable maintenance agreement that designates the parties responsible for the operation, maintenance, and repair of all storm water management facilities and all storm water quality measures and practices as required by this subchapter. As part of the agreement, a schedule shall be developed for when and how often maintenance will occur to ensure proper function of the storm water management facility. The agreement shall also include plans for periodic inspections to ensure proper performance between scheduled cleanouts. The

agreement shall include provisions for funding all required maintenance. All maintenance agreements shall be subject to the approval of the Department and recorded with the County Recorder.

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(3) Parties who are responsible for installation, operation, maintenance, and repair of storm water management facilities shall make and maintain records for all installation, maintenance and repairs made to all systems, structures, and measures. These records must be maintained for at least five years and made available to the Department at all reasonable times.

(4) The execution or provision of a drainage easement for access and maintenance purposes in favor of the town which is recorded and binding on all subsequent owners of the real estate burdened by the easement and those served by the on-site storm water management facilities and measures.

(5) The design and planning of all storm water management facilities shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management facility that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.

(6) Establishment of a landscaping plan which provides for the maintenance of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved.

(7) The establishment of an erosion and sediment control plan for all construction activities related to implementing any on-site storm water management facilities, measures, and practices.  
(Ord. 6-15-06C, passed 6-15-06)

### **§ 53.23 ENFORCEMENT.**

#### **(A) Notice of violation.**

(1) Whenever the Department finds that a person has committed a prohibited act or failed to meet the requirements of this subchapter, the Department may take one or more of the following actions:

(a) Notify the person who committed the act or failed to meet the requirements of this subchapter by telephone and request compliance or cessation of the prohibited act.

(b) Notify the person who committed the act or failed to meet the requirements of this subchapter in writing and order compliance or cessation of the prohibited act.

(c) Enter into an agreed order with the approval of the Board which order may include payment of a fine by the violator.

(d) File a notice of violation before the Board describing the violation of this subchapter found by the Department.

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(e) File a complaint in a court of competent jurisdiction seeking a judicial determination that this subchapter has been violated and requesting the imposition of fines.

(2) If the Department takes any authorized action and taking such action does not result in compliance with this subchapter, the Department may take any other authorized action to obtain compliance.

(3) The Department may file a complaint with a court of competent jurisdiction to enforce the terms of an agreed order or an order of the Board.

(B) Right to enter premises.

(1) The Department shall have the right to enter any premises for any of the following reasons:

(a) Investigate a suspected spill or discharge into the storm water or town's storm drain system;

(b) To carry out routine inspections;

(c) To carry out routine sampling; and

(d) To verify compliance with any agreed order, order of the Board, or order of any court of competent jurisdiction.

(e) Entry shall be first attempted by seeking consent of occupant or owner.

(2) If the Department has been refused access to any part of the premises from which storm water is discharged and the Department is able to reasonably demonstrate to a court of competent jurisdiction that there may be a violation of this subchapter, or that there is a need to inspect or sample as part of the Department's routine inspections and sampling program, the Department may seek a court order allowing the Department access to all relevant parts of a premises.

(3) Any written notice of violation shall be issued upon the responsible party by regular U.S. mail or delivered personally to the responsible party unless the applicable ordinance or statute requires different written notice.

(C) Board hearing.

(1) Before any Board hearing is held, a party alleged to have violated this subchapter shall receive written notice of the violation including the nature of the violation and a summary of the facts that constitute that violation. In the event of an

emergency hearing before the Board, this information may be orally presented to the affected party and the affected party may elect to proceed or the affected party may insist on written notice and delay the hearing. The emergency action taken by the Department shall continue until a hearing can be held.

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(2) A party alleged to have violated this subchapter has the right to have an attorney present to cross examine witnesses, and has the right to present evidence and have witnesses testify.

(3) A party found to have violated this subchapter has a right to appeal the determination of the Board to a court of competent jurisdiction within 20 days of the action of the Board by filing a verified complaint. The court may affirm, modify or reverse the action taken by the Board. Any such appeal shall be heard de novo.

(4) Filing a notice of violation is not a prerequisite to filing a complaint alleging a violation before a court of competent jurisdiction.

(D) Injunctive relief. If a party has violated this subchapter and continues to do so, the Department may petition any court of competent jurisdiction for the issuance of a temporary restraining order or permanent injunction which restrains or requires specific compliance with this subchapter.

(E) Restoration of lands. Any violator may be required to restore land to its undisturbed condition. In the event that restoration is not undertaken within a reasonable time after notice, the Department may take necessary corrective action, the cost of which shall become a lien upon the property until paid.

(F) Access to inspections of storm water facilities.

(1) The Department shall be granted at all reasonable terms access to the real estate to inspect any storm water management facility.

(2) When any new drainage control facility is installed on private property, or when any new connection is made between private property and a public drainage control system, sanitary sewer, or combined sewer, the property owner shall grant to the town the right to enter the property at reasonable times and in a reasonable manner for the purpose of inspection. This includes the right to enter a property when it has a reasonable basis to believe that a violation of this subchapter is occurring or has occurred, and to enter to correct a violation of this subchapter. (Ord. 6-15-06C, passed 6-15-06) Penalty, see § 53.99

## **§ 53.24 ADOPTION OF STATE EROSION AND SEDIMENT CONTROL MANUAL.**

The latest version of the State Erosion and Sediment Control Manual (currently known as the Indiana Handbook for Erosion Control and Developing Areas), as amended or replaced from time to time, is hereby adopted as the technical manual of reference for the minimum control requirements for erosion and sediment control for the town.

(Ord. 6-15-06C, passed 6-15-06)



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**STORM WATER USER FEES****§ 53.35 DEFINITIONS.**

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

**ADVISORY BOARD.** The Advisory Board for the Greater Elkhart County MS4 as established under the Interlocal Agreement between the County of Elkhart, City of Elkhart, City of Goshen, and Town of Bristol for the implementation of the Phase II Storm Water NPDES Permit Regulations.

**EQUIVALENT RESIDENTIAL UNIT (ERU).** The number of units, equal to the assumed average amount of impervious area of a single-family residential parcel of real estate within the town, which is established at 3,600 square feet of impervious area. The unit value, which will be carried out and rounded off to one decimal point, being the equivalent of one-tenth of an ERU, is also the basis for calculating the assessment of storm water user fees for the town storm water system.

**IMPERVIOUS AREA.** Those areas which prevent or impede the infiltration of storm water into the soil as it enters natural conditions prior to development. Common impervious areas include, but are not limited to roof tops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas, gravel surfaces, awnings and other fabric or plastic coverings, and other surfaces which prevent or impede the natural infiltration of storm water runoff which existed prior to development.

**KEY NUMBER.** A number assigned to a tract of land in Elkhart County by the Elkhart County Auditor that identifies the taxing district in which the tract is located, is a number that is not assigned to any other tract in Elkhart County, and is listed in the transfer book or records maintained under I.C. § 6-1.1-5.

**NON-RESIDENTIAL REAL ESTATE.** All real estate tax parcels which are not described by the definition of **RESIDENTIAL REAL ESTATE** shall be defined as non-residential. Nonresidential real estate will include:

- (1) Agricultural real estate;
- (2) Commercial real estate;
- (3) Industrial real estate;
- (4) Institutional real estate;

(5) Church real estate;

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(6) School real estate;

(7) Federal, state, and local government real estate;

(8) Utility real estate; and

(9) Any other real estate not mentioned in this list and which is not described by the definition of residential real estate.

**RESIDENTIAL REAL ESTATE.** A separate tax parcel of real estate which is primarily used for dwelling purposes on which a building is situated which building contains one or more dwelling units which dwelling units are each used or are intended to be used primarily for living, sleeping, cooking, and eating. **RESIDENTIAL REAL ESTATE** shall include all types of dwelling units including single-family homes, duplexes, triplexes, quadplexes, and row type homes. **RESIDENTIAL REAL ESTATE** shall also include condominium dwellings, apartment dwellings, and mobile home parks.

(Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

#### **§ 53.36 STORM WATER USER FEE.**

A storm water user fee shall be imposed on each and every tax parcel of real estate within the incorporated portions of the town which directly or indirectly contributes to the storm water system of the town, which charge shall be assessed against the owner thereof, who shall be considered the user for purposes of this subchapter. This charge is hereby deemed to be reasonable and necessary to pay for the regulation, planning, operation, maintenance, repair, replacement, and improvement of the existing and future town storm water system.

(Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

#### **§ 53.37 STORM WATER RATES.**

Until later revised or amended, the storm water user fees shall be at the rate of \$15 per year per ERU. This storm water rate is designed to cover the cost of rendering storm water service to the users of the town storm water system and shall be the basis for the assessment of the storm water user fee. This rate is established so as to maintain adequate fund reserves to provide for reasonably expected variations in the cost of providing services, variations in the requirements for providing such services, as well as future improvements and capital needs. This rate may be evaluated and adjusted, as necessary, with regard to its sufficiency to satisfy the needs of the Department of Storm Water Management; otherwise, this rate shall remain in effect.

(Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

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**§ 53.38 RATE STRUCTURE AND CALCULATION.**

(A) There is hereby assessed a storm water user fee to each owner of residential real estate and non-residential real estate located within the incorporated portions of the town which contain impervious area in an amount based upon the assigned ERU as determined below. Such user fees shall be calculated and assessed each year on a tax parcel basis by key number.

(B) All real estate having impervious area within the incorporated portions of the town will be assigned an ERU in accordance with the following provisions:

(1) Residential real estate. A residential tax parcel containing only a single-family dwelling unit shall be one ERU. A residential tax parcel containing two or three dwelling units shall also be assigned one ERU. All other residential tax parcels containing more than three dwelling units shall be assigned an ERU based upon the parcel's individually measured impervious area in square feet divided by 3,600 square feet. This division will be calculated and rounded to the first decimal point.

(2) Non-residential real estate. Each tax parcel of non-residential real estate shall be assigned an ERU based upon the parcel's individually measured impervious area in square feet divided by 3,600 square feet. This division will be calculated and rounded to the second decimal place.

(3) The identification of real estate tax parcels and key numbers, the classification of primary use, the determination of whether a tax parcel contains a dwelling unit, the number of dwelling units a tax parcel contains, the classification of the type of dwelling unit and type of real estate, and the measurement and calculation of the impervious area on a tax parcel shall be based upon the existing data in the Elkhart County computer assisted mass appraisal system database for the respective determination date used for making the storm water user fee assessments.

(4) For each current year storm water user fee assessment, the determination date shall be March 1 of the prior year.

(C) Utilizing the provisions of paragraphs (3) and (4) of division (B) above, the assessment for any tax parcel with a calculated storm water use fee equal to less than \$2.25 will be waived.

(D) There shall be no other exceptions or exemptions from the assignment of ERUs and the assessment of storm water user fees for a particular type or classification of real estate tax parcel within the town.

(Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

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**§ 53.39 COLLECTION OF USER FEES.**

(A) The collection of the storm water user fees authorized by this subchapter shall be effectuated through a charge appearing each year on the property tax statements of the affected property owner. One-half of the storm water user fees charged each year for a real estate tax parcel shall be billed on each of the spring and fall property tax statements for that parcel. The user fees shall be due and payable at the same time as the property taxes appearing on the spring and fall property tax statements are due and payable. In the event only one property tax statement is billed for a real estate tax parcel, the entire annual storm water user fees for that parcel authorized by this subchapter shall be billed on that property tax statement which shall be due and payable at the same time as the property taxes appearing on the property tax statement are due and payable.

(B) If user fees are not paid when due, they shall be charged and assessed late payment penalties by the Elkhart County Treasurer in the same way and in the same manner that delinquent property taxes are charged and assessed.

(C) If user fees and penalties are not paid when due, they shall be collected by the Elkhart County Treasurer in the same way that delinquent property taxes are collected.

(Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

**§ 53.40 APPEALS OF ERU DETERMINATION.**

(A) If, in the opinion of any user, the ERU assigned to the user's real estate tax parcel is inaccurate in light of the number of dwellings or amount of impervious area on the property, the user shall have the right to contest the ERU determination and thus the storm water user fees assessed in accordance with the provisions contained in this section.

(B) The user shall obtain and complete a Petition to Appeal Storm Water Assessment Form which shall be filed with the Elkhart County MS4 operator with verifiable documentation supporting the user's claim. To be timely for any current year storm water user fee assessment, a Petition to Appeal must be filed no later than the date on which the spring installment of user fees shall be due and payable. The Elkhart County MS4 operator shall refer the petition to the Advisory Board for the Greater Elkhart County MS4.

(C) The Advisory Board shall investigate the user's claim and, upon review thereof, shall render a written determination that either the original ERU determination and assessment should be affirmed or that the user's rate should be adjusted and how much the adjustment should be.



(D) The determination made by the Advisory Board shall be forwarded to the user by certified mail, return receipt requested. The user shall have 15 days from date of receipt to request reconsideration if dissatisfied with the decision from the Advisory Board. Any additional facts concerning the dispute shall

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be reduced to writing and submitted, along with a copy of the original petition and supporting documents, to the Elkhart County MS4 Operator. The Elkhart County MS4 Operator shall refer the matter to the Board of the Department of Storm Water Management. The Advisory Board shall submit a written report of the determination in the case, along with any documents used, in denying the user's claim or in recommending an adjustment.

(E) Thereafter, the Board of the Department of Storm Water Management shall review all documentation and conduct an informal hearing to determine and resolve the dispute based upon the documentation submitted and any oral testimony. The Board shall issue a determination which shall be binding upon the Department of Storm Water Management and the user. The hearing shall be recorded and the minutes of the hearing provided upon request at a cost per page as determined by the Secretary for the Board which rate shall be amended from time to time.

(F) Any user aggrieved by the final Board determination shall have the right to judicial review of such determination in accordance with Indiana law.

(G) If a user's storm water assessment is reduced or eliminated by the Advisory Board, the Board of the Department of Storm Water Management, or court of law, the user shall be refunded accordingly for any overpayment made from the earlier of the date the storm water user fee assessment was paid or was due and payable.

(H) A dispute or appeal of an ERU determination for storm water assessment shall not be a valid reason for non-payment of the originally assessed storm water user fee.

(Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

#### **§ 53.41 STORM WATER UTILITY FUND.**

All storm water user fees and penalties collected and interest earned thereon shall be deposited in the Town Storm Water Utility Fund.

(Ord. 10-19-06(A), passed 10-19-06; Am. Ord. 1-20-11, passed 1-20-11)

**Cross-reference:**

Storm water utility fund, see §§ 35.40, 35.42

#### **§ 53.99 PENALTY.**

(A) Any violation of this chapter is subject to a fine of up to \$2,500.

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(B) The Department may enter upon private property and take any and all measures necessary to abate a violation, if a court of competent jurisdiction has found that a violation of this chapter has occurred and has approved the action to be taken by the Department. The costs of such abatement shall be assessed to the owner of the private property.

(C) The Department may suspend any Town MS4 discharge access to stop an actual or threatened discharge which presents imminent and substantial danger to the environment, to the health or welfare of any person, to the Town MS4, or to any waters. This suspension may be without notice if an emergency exists but a hearing will be held at the next Board meeting after the owner of the real estate can be notified to determine the existence of an emergency and that there is a substantial and imminent danger.

(D) The Board or any court may order the owner of the real estate or the responsible party for the operations on the real estate to take any and all actions necessary to comply with this chapter.

(E) The Department may recover reasonable attorney fees, court costs, and other expenses associated with the enforcement of this chapter including sampling and monitoring expenses and the cost of actual damages incurred by the Department.

(F) Each day a violation continues constitutes a new and separate violation.

(G) If a party has violated this chapter and continues to do so, the Department may petition any court of competent jurisdiction for the issuance of a temporary restraining order or permanent injunction which restrains or requires specific compliance with this chapter.

(Ord. 6-15-06B, passed 6-15-06)

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