

AN ORDINANCE FOR WASTEWATER PRETREATMENT OF THE
ROCKPORT WASTEWATER DEPARTMENT

WHEREAS, the Sewer Department of the City of Rockport, Indiana maintains and operates a sanitary sewer system under its jurisdiction both inside and outside the corporate limits of Rockport, Indiana; and

WHEREAS, the Sewer Department of the City of Rockport, Indiana now needs to adopt a pretreatment ordinance pursuant to federal and state law.

NOW, THEREFORE, BE IT ORDAINED by the City of Rockport, Indiana as follows:

Section One: GENERAL PROVISION

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

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

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

Section 1.1: Administration

Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the wastewater Superintendent may be delegated by the Superintendent to other City personnel.

Section 1.2: Abbreviations

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

BOD5	-Biochemical Oxygen Demand - Five Day
CRF	-Code of Federal Regulations
COD	-Chemical Oxygen Demand
EPA	-U.S. Environmental Protection Agency - Washington, D.C.
EPA Reg. V	-U.S. Environmental Protection Agency, Region V - Chicago, Illinois
FOG	-Fats, Oil and Grease
gpd	-gallons per day
IC	-Indiana Code
I/I	-Inflow and Infiltration (Clear Water Flow)
IDEM	-Indiana Department of Environmental Management
mg/l	-milligrams per liter
NPDES	-National Pollutant Discharge Elimination System
O&G	-Oil and Grease
POTW	-Publicly Owned Treatment Works
RCRA	-Resource Conservation and Recovery Act
SIC	-Standard Industrial Classification
SIU	-Significant Industrial User
SNC	-Significant Noncompliance
TSS	-Total Suspended Solids
U.S.C.A	-United States Code

Section Two: DEFINITIONS

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

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 et seq.
- B. Approval Authority. The Regional Administration of U.S. EPA Region V.

- C. Authorized Representative of the User.
- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (b) The manager of one or more manufacturing, production, or operation facilities employment more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (3) If the user is a Federal, State or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (4) The individuals described in paragraphs 1 through 3 above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Board.
- D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g.-mg/l).
- E. Board. Board of the City of Rockport Board of Public Works and Safety, or any other duly authorized officials acting on its behalf.
- F. Bypass. The intentional diversion of waste streams from any portion of an Industrial User's treatment facility.
- G. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

- H. Clear Water Flow. Groundwater or precipitation related water which enters the sanitary sewer collection system through pipe defects (infiltration) or conduits (inflow).
- I. Control Authority. Board of Public Works and Safety, the City of Rockport, Indiana.
- J. Council. The Common Council of the City of Rockport, Indiana.
- K. City. The City of Rockport, under the jurisdiction of the Rockport Board of Public works and Safety.
- L. Composite Sampling. Method of sampling which weighs sample volume with discharge flow rate.
- M. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Region V Water Management Division Director, or other duly authorized official of said agency.
- N. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- O. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- P. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.
- Q. 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.
- R. 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 City'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: Section 405 of the Act; the Solid Waste Disposal Act, including Title 11 commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

- S. 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.
- T. New Source.
- (1) Any building, structure, facility or installation from which there is (or may be) a discharge or pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge or pollutants at an existing source, or
 - (c) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
 - (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces or adds to existing process or production equipment.
 - (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous on-site construction program
 - (i) any placement, assembly or installation of facilities or equipment; or
 - (ii) 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

- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- U. 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,
- V. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permits (IN0021067 and IN0061662), including an increase in the magnitude or duration of a violation.
- W. Person. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal State and local governmental entities.
- X. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- Y. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).
- Z. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- AA. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- BB. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

- CC. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- DD. Publicly Owned Treatment Works or POTW. A "treatment works" as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by the City. 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.
- EE. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- FF. Sewage. Human excrement and gray water (household showers, dish washing operations, etc.).
- GG. Significant Industrial User (SIU).
- (1) A user subject to categorical pretreatment standards; or
 - (2) A user that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater at the POTW (excluding sanitary, noncontact cooling and boiler blow down wastewater);
 - (b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or
 - (c) Is designated as such by the Board on the basis that it has reasonable potential for adversely affecting the POTW's operation or for violation any pretreatment standard or requirement.
 - (3) Upon a finding that a user meeting the criteria in Subsection(2) has reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Board may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.
- HH. Significant Noncompliance (SNC). For compliance provisions of this Ordinance, Significant Noncompliance (SNC) is defined as follows:

(1) Violations of Wastewater Discharge Limits

- (a) **Chronic Violations.** Sixty-six percent (66%) or more of the measurements exceed the same daily maximum limit or the same average limit in a six (6) month period.
- (b) **Technical Review Criteria (TRC).** Thirty-three percent (33%) or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six (6) month period.

There are two (2) groups of TRC's:

- (i) **Group I for conventional pollutants**
(BOD5, COD, TSS, fats, oil and grease)
TRC = 1.4 (40%)
- (ii) **Group II for all other pollutants**
TRC = 1.2 (20%)
- (c) Any other violation(s) of an effluent limit (Average or daily maximum) that the Wastewater Superintendent believes has caused, along or in combination with other discharges, interference (e.g., slug loads) or pass-through; or endangered the health of the sewage treatment personnel or the public.
- (d) Any discharge of a pollutant which has caused imminent endangerment to human health/welfare or to the environment and resulted in the POTW's exercise of this emergency authority to halt or prevent such a discharge.

- (2) Violation of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
- (3) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards (baseline monitoring reports, 90 day compliance reports and periodic reports) within 30 days from due date.
- (4) Failure to accurately report non-compliance.
- (5) Any other violation or group of violations which the Utilities Manager considers to be significant.

II. Slug Load or Slug. Any discharge at a flow rate or Concentration which could cause a violation of the prohibited discharge standards in Section 3.1 of this ordinance.

- JJ. Standard Industrial Classification. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- KK. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snow melt.
- LL. 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.
- MM. Upset. An exceptional incident in which there is an unintentional incident and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance or careless or improper operation.
- NN. User or Industrial User. A source of discharge to the municipal sewer system.
- OO. Superintendent. The person designated by the City of Rockport Board of Public Works and Safety who is charged with certain duties and responsibilities by this ordinance or a duly authorized representative.
- PP. 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.
- QQ. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

Section Three: GENERAL SEWER USE REQUIREMENTS

Section 3.1: Prohibited Discharge Standards

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which cause pass through or interference. These general prohibitions apply to all user's of the POTW whether or not they are subject to categorical pretreatment standards or by any other National, State or local pretreatment standards or requirements.
- B. Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flash point 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. Total Suspended Solids level in excess of 250 mg/1 daily average may be subject to a surcharge per Section 2.2;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW. BOD levels in excess of 200 mg/1 daily average may be subject to a surcharge per abnormal waste discharge;
- (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 which causes the temperatures at the introduction into the treatment plant to exceed 104°F (40°C);
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (7) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW sewers including in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants;
- (9) Noxious or malodorous liquids, gases, solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

- (12) Storm water, surface water, ground water, artisan well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Superintendent;
- (13) Sludges, screenings or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Upsets and/or Bypass. A user may not allow an upset of pretreatment system bypass unless such event is unavoidable to prevent loss of life, personal injury or severe property damage.
 - (a) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

Section 3.2: Abnormal Waste Surcharge

- A. In the event the Approving Authority excludes a customer from the requirements of Section 2.1 and the customer discharges abnormal industrial wastes to the public sanitary sewerage system having an average total suspended solids (TSS) content in excess of 250 mg/l and/or an average of five (5) day BOD in excess of 200 mg/l and/or COD in excess of 400 mg/l, the customer shall pay a surcharge based upon the excess strength of his wastes.
- B. The costs of treatment for each pound of BOD and/or suspended solids removed by each treatment works shall be calculated and reviewed by the City at the end of each fiscal year (January) . If a discrepancy exists between the actual costs as found by the City and the estimated costs, the Approving Authority may increase or decrease the surcharge rates sufficiently to cover only the projected actual costs for the ensuing year.

- C. No reduction in sewerage service charges, fees or taxes will be permitted because of the fact that certain industrial wastes discharged to the public sanitary sewer system contain less than 250 milligrams per liter of suspended solids or 200 milligrams per liter BOD.

Section 3.3: National Categorical Pretreatment Standards

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

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

Section 3.4: Local Limits

The following pollutant limitations are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum concentrations based upon a 24-hour composite sample. Additionally, no person shall discharge wastewater containing in excess of the following maximum concentrations times a multiplier of 1.5 based upon a grab sample. The 1.5 grab sample multiplier does not apply to Hex, Chromium, Cyanide and Phenols in that analytical procedures do not allow for composite techniques to be applied to these parameters. For Hex, Chromium, Cyanide and Phenols, three (3) grab sample results shall be analyzed with results not to exceed the following noted limitations.

- 0.08 mg/l Arsenic (total)
- 400 mg/l BOD (daily maximum)
- 550 mg/l COD (daily maximum)
- 025 mg/l Cadmium (total)
- 3.0 mg/l Hex. Chromium
- 800 mg/l Chloride
- 3.0 mg/l Total Chromium
- 250 mg/l Total Suspended Solids (daily maximum)

0.233 mg/l Copper
0.074 mg/l Cyanide (total)
0.17 mg/l Lead (total)
0.005 mg/l Mercury (total)
0.06 mg/l Molybdenum
0.30 mg/l Nickel
10.0 mg/l Oil & Grease
1.00 mg/l Phenols
0.08 mg/l Selenium
2.13 mg/l, TTO
0.5 mg/l Zinc (total)

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The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Superintendent may impose limitations in addition to, or in place of, the concentration-based limitations above.

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

Section 3.5: City's Right of Revision

The Board reserves the right to establish, by ordinance, more stringent standards or requirements on discharges to the POTW.

Section 3.6: Dilution

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

1 Limitation derived from waste load model based upon 1990 Indiana Water Quality Standards.

2 Limitation derived from waste load model based upon 40 CFR Part 503 Federal Sludge Regulations.

Section Four: PRETREATMENT OF WASTEWATER

Section 4.1: Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in this ordinance within the time limitations specified by EPA, the State, or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review, and shall be acceptable, to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this ordinance.

Section 4.2: Additional Pretreatment Measures

- A. Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
- B. The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- D. Users which operate vehicular wash facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control solids and preclude the discharge of toxins to the POTW.
- E. Users which operate food preparation facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control the discharge of greases, fats, oils and food solids to the POTW.

Section 4.3: Accidental Discharge/Slug Control Plans

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

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Superintendent of any accidental or slug discharge as required by Section 6.6 of this ordinance; and
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Section Five: WASTEWATER DISCHARGE PERMIT APPLICATION

Section 5.1: Wastewater Analysis

When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

Section 5.2: Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Indiana Department of Environmental Management.

Section 5.3: Regulation of Waste Received from Other Jurisdictions

- A. If another municipality, or sewer district contributes wastewater to the POTW, the Superintendent shall enter into an intermunicipal or interdistrict agreement with the contributing entity.
- B. Prior to entering into an agreement required by paragraph A, above, the Superintendent shall request the following information from the contributing entity:

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing entity;
 - (2) An Inventory of all users located within the contributing entity that are discharging to the POTW; and
 - (3) Such other information as the Superintendent may deem necessary.
- C. An agreement, as required by paragraph A, above, shall contain the following conditions:
- (1) A requirement for the contributing entity to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 2.4 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or local limits;
 - (2) A requirement for the contributing entity to submit a revised user inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Superintendent, and which of these activities will be conducted jointly by the contributing municipality and the Superintendent;
 - (4) A requirement for the contributing entity to provide the Superintendent with access to all information that the contributing entity obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing entity's wastewater at the point where it discharges to the POTW;
 - (6) Requirements for monitoring the contributing entity's discharge;
 - (7) A provision ensuring the Superintendent access to the facilities of users located within the contributing entity's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Superintendent; and

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

Section Six: REPORTING REQUIREMENTS

Section 6.1: Baseline Monitoring Reports

- A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6 (a) (4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to the commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below:
 - (1) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation (s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6 (3).
 - (5) Measurement of Pollutants.
 - (a) The categorical pretreatment standards applicable to each regulated process .

- (b) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process, instantaneous, daily maximum and long term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this ordinance.
- (c) Sampling must be performed in accordance with procedures set out in Section 6.11 of this ordinance. Sampling and analysis may be performed by the POTW in lieu of the Industrial User. Where the POTW itself collects all of the information required for a reporting requirement, the Significant Industrial User will not be required to submit the report.
- (6) **Certification.** A statement, reviewed by the users 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 Section 6.2 of this ordinance.
- (8) **Signature and Certification.** All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this ordinance.

Section 6.2: Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by the Section 5.1B (7) this ordinance.

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading in the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, project status reports, beginning operation, and attain compliance);
- B. No increment referred to above shall exceed nine (9) months;
- C. The user shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.

Section 6.3: Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

Section 6.4: Periodic Compliance Reports

- A. All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Section 6.11 of this ordinance, the results of this monitoring shall be included in the report.

Section 6.5: Reports of Changed Conditions

Each user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least ninety (90) days before the change.

- A. The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application, under Section 4.5 of this ordinance.
- B. The Superintendent may issue a wastewater discharge permit under Section 4.7 of this ordinance or modify an existing wastewater discharge permit under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

Section 6.6: 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 Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five (5) days following such discharge, the user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification

shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of the damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or liability which may be imposed pursuant to this ordinance.

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

Section 6.7: Reports from Unpermitted Users

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

Section 6.8: Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

Section 6.9: Notification of the Discharge of Hazardous Waste

- 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 Part 261. Such notification must include the name of the hazardous waste as set forth in CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user; an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the

discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under the conditions of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards following the self-monitoring requirements of this ordinance.

- B Discharges are exempt from the requirements of paragraph A above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Regional Waste Management Waste Division Director and the Indiana Department of Environmental Management (IDEM) of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

Section 6.10: Analytical Requirements

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

Section 6.11: Sample Collection

- A. Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Superintendent may authorize the use of time proportional sampling or a minimum of three (3) 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 of oil and grease (O&G), temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.

Section 6.12: 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.

Section 6.13: Record Keeping

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

Section Seven: COMPLIANCE MONITORING

Section 7.1: Right of Entry: Inspection and Sampling

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

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent or his agent will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Superintendent or his agent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at a minimum of once per year to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.
- E. Unreasonable delays in allowing the Superintendent or his agent access to the user's premises shall be a violation of this ordinance.

Section 7.2: Search Warrants

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

Section Eight: CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs and from the Wastewater Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the Superintendent that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of

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

Section Nine: ADMINISTRATIVE ENFORCEMENT REMEDIES

Section 9.1: Notification of Violation

When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written Notice of Violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Noting in this section shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

Section 9.2: Agreed Orders

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

Section 9.3: Show Cause Hearing

The Superintendent may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered

or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Section 9.4: Compliance Orders

When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the superintendent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 9.5: Cease and Desist Orders

When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

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

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

Section 9.6: Administrative Fines

- A. When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard, or requirement, the Superintendent may fine such user in an amount not to exceed \$2,5000.00 as provided by I.C. §36-1-3-8. Such

finest shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

- B. Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of 1.8 percent per month. A lien against the user's property will be sought for unpaid charges, fines and penalties.
- C. Users desiring to dispute such fines must file a written request for the Superintendent to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Superintendent may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders to the fine.
- D. Issuance of an administrative fine shall be a bar against, or a prerequisite for, taking any other action against the user.

Section 9.7: Emergency Suspension

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

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance, are initiated against the user.

- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing.

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

Section 9.8: Termination of Discharge

Any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in this ordinance.

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

Section 9.9: Public Nuisances

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

Section Ten: JUDICIAL ENFORCEMENT REMEDIES

Section 10.1: Injunctive Relief

When the Superintendent finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may

petition the Spencer Circuit Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this ordinance on activities of the user. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 10.2: Civil Penalties

- A. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City of Rockport for a maximum civil penalty of \$2,500.00 per violation, per day. 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 Superintendent may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities including sampling and monitoring expenses and the cost of any actual damages incurred by the City of Rockport.
- C. In determining the amount of civil liability, the court shall taken into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violations, 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.

Section 10.3: Remedies Nonexclusive

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

Section Eleven: MISCELLANEOUS PROVISIONS

Section 11.1: Pretreatment Charges and Fees

The Board may adopt reasonable fees for reimbursement of costs of setting up and operating the city's pretreatment program which may include:

- A. Fees for monitoring, inspection and surveillance procedures including the costs of collection and analyzing a user's discharge and reviewing monitoring reports submitted by users;
- B. Fees for reviewing and responding to accidental discharge procedures and construction;
- C. Fees for filing appeals; and
- D. Other fees as the board may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the City of Rockport.

Section 11.2: Public Noticing of SNC Discharges

The Superintendent shall, on a yearly basis, publish a listing of individual significant industrial users (SIU's) found to be in significant noncompliance (SNC) during the previous 12 month period. The notice shall be placed in the legal notice section of the newspaper of largest circulation within the City of Rockport. The listing shall include the name of the SIU and the basis for SNC determination.

Section Twelve: EFFECTIVE DATE

- A. This ordinance shall become immediately effective upon its adoption by the Common Council, signature by the Mayor, enrollment in the book of ordinances and publication of notice as required by law.
- B. Any ordinance in contradiction to this ordinance is hereby repealed.

This ordinance shall be in full force and effect as of _____, 2011 from and after its passage by the Common Council and approval by the Mayor and publication as required by Indiana law.

PASSED AND ADOPTED by the Common Council of the City of Rockport, Indiana this day 3rd of October, 2011.

COMMON COUNCIL OF THE CITY OF
ROCKPORT, INDIANA

BY: Harold Goffinet
Harold Goffinet, Mayor

ATTEST:

Elizabeth Naef
Elizabeth Naef, Clerk-Treasurer

Presented by me to the Mayor of the City of Rockport, Indiana
this 3rd day of October, 2011 at the hour 6:50 o'clock P.m.

Elizabeth Naef

Elizabeth Naef, Clerk-Treasurer

Approved and signed by me on this 3rd day of October, 2011.

Harold Goffinet
Harold Goffinet, Mayor