

CITY OF NAPPANEE

TITLE V: PUBLIC WORKS

CHAPTER 51: SEWERS

January 2016

CITY OF NAPPANEE

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**CITY OF NAPPANEE
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SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This Ordinance sets forth uniform requirements for users of the Nappanee Wastewater Department Publicly Owned Treatment Works (POTW) for the City of Nappanee, Indiana, 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 Nappanee POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Nappanee POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both Nappanee POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Nappanee POTW; and
- E. To enable Nappanee POTW 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 Nappanee POTW is subject.

This Ordinance shall apply to all users of the Nappanee POTW. This Ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides the authority to recover the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Utilities Manager shall administer, implement, and enforce the provisions of this Ordinance. Any powers granted to or duties imposed upon the Utilities Manager may be delegated by him to other Nappanee Wastewater Department personnel.

1.3 Abbreviations

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

ASTM - American Society for Testing Materials

BOD - Biochemical Oxygen Demand

CFR - Code of Federal Regulations

COD - Chemical Oxygen Demand

EPA - Environmental Protection Agency

gpd - Gallons per day

ISDH - Indiana State Department of Health

L - Liter

mg - Milligrams

mg/L - Milligrams per liter

NPDES - National Pollutant Discharge Elimination System

NSIU - Non-Significant Industrial User

O&M - Operation and Maintenance

POTW - Publicly Owned Treatment Works

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

SIC - Standard Industrial Classification

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

SIU - Significant Industrial User

SNC - Significant Noncompliance

TSS - Total Suspended Solids

USC - United States Code

WEF - Water Environment Federation

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

1.4 Definitions

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

“Act or the Act” - The Federal Water Pollution Control Act, (PL 92-500) also known as the Clean Water Act of 1977, as amended, 33 U.S.C. 1251, et. seq. (95-217); as well as any guidelines, limitations and standards promulgated by the Environmental Protection Agency pursuant to the Act.

“Applicable Pretreatment Standard” - Any pretreatment limit or prohibitive standard (federal and/or local) contained in this Ordinance deemed to be the most restrictive which non-domestic users will be required to comply with.

“Approval Authority” – The Indiana Department of Environmental Management.

“Authorized Representative of the User”

- (A) If the user is a corporation, 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.
- (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 Utilities Manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility by having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure the long-term environmental compliance with environmental laws and regulations; can ensure that necessary systems are established or actions taken to gather complete and accurate information for individual wastewater permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (E) The individuals described in paragraphs A through D, 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 Nappanee Board of Public Works & Safety.

“Average Monthly Discharge Limitation” - The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

“Beneficial Uses” - These uses include, but are not limited to, domestic, municipal, agricultural, and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, both tangible and intangible, as specified by state or federal law.

“Best Management Practices or BMPs” - means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating

procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“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 degrees Centigrade, usually expressed as a concentration (e.g., mg/L). The laboratory determinations shall be made in accordance with procedures set forth in “Standard Methods.”

“Board of Public Works & Safety“ - The administrative governing body of the public utilities of the City of Nappanee, Indiana or any duly authorized officials acting on its behalf. This body is sometimes hereinafter referred to as the “Board.”

“Categorical Industrial User“ – An Industrial User subject to a categorical pretreatment standard or categorical Standard.

“Categorical Pretreatment Standard or Categorical Standard“ - Any federal regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. □ 1317) wh

“Chemical Oxygen Demand“ - (or COD) of sewage, sewage effluent, polluted waters or industrial wastes is a measure of the oxygen equivalent of that portion of the organic matter in a sample that is susceptible to oxidation by a strong chemical oxidant. The laboratory determination shall be made in accordance with procedures set forth in “Standard Methods.”

“City“ - The City of Nappanee, Indiana.

“Compatible Pollutant“ – Wastewater having or containing measurable Biochemical Oxygen Demand (BOD), suspended solids, pH, and fecal coliform bacteria, or additional pollutants identified or defined in the City’s NPDES Permit, State of Indiana or United States EPA. Examples of the additional pollutants which may be compatible include:

- A. Chemical oxygen demand;
- B. Total organic carbon;
- C. Phosphorus and phosphorus compounds;
- D. Nitrogen and nitrogen compounds; and
- E. Fats, oils, and greases of animal or vegetable origin except as prohibited where their materials would interfere with the operation of the treatment works.

“Composite Sample“ - A composite sample should contain a minimum of eight discrete samples taken at equal time intervals over the compositing period or proportional to the flow rate over the compositing period. More than the minimum

number of discrete samples will be required where the wastewater loading is highly variable.

“Control Authority” – the Commissioner of the Indiana Department of Environmental Management.

“Daily Discharge” - Discharge of a pollutant “measured during a calendar day or any twenty-four (24) hour period that reasonably represents the calendar day for purposes of sampling.”

“Debt Service Costs” – The average annual principal and interest payments on all outstanding revenue bonds or other long term capital debt.”

“Department” - The City of Nappanee Wastewater Department, including the Publicly Owned Treatment Works (POTW) operated by such Department.

“Easement” – An acquired legal right for the specific use of land owned by others.

“Effluent” - Water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle, or outlet.

“Environmental Protection Agency” or EPA - The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

“Escherichia Coli (E.coli)” Any number of organisms common to the intestinal tract of man and animals whose presence in sanitary sewage is an indicator of pollution.”

“Excessive Strength Surcharge.” An additional charge which is billed to users for treating sewage wastes with an average strength in excess of normal domestic sewage.

“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.

“Federal Act” - The Federal Water Pollution Control Act, PL 92-500, and any amendments thereto; as well as any guidelines, limitations, and standard promulgated by the Environmental Protection Agency pursuant to the act.

“Floatable Oil” - Oil, fat, or grease in a physical state, such that will separate by gravity from wastewater by treatment in an approved pretreatment facility.

“Garbage” - Any solid wastes from the preparation, cooking, or dispensing of food and from the handling, storage, or sale of produce.

“General Prohibitions” - No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

“Grab Sample” - A random sample which is taken from a wastestream without regard to the flow in the wastestream or time of day and over a period of time not to exceed fifteen (15) minutes.

“Grease and Oil” - A group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of their determination in accordance with “Standard Methods.”

“Ground (Shredded) Garbage” - Garbage that is shredded to such a degree that all particles will be carried freely in suspension under the conditions normally prevailing in the sewerage system, with no particle being greater than one-half (1/2) inch in dimension.

“Hazardous Waste” - Any waste defined as a hazardous waste under 40 CFR Part 261.

“Holding Tank Waste” - Any waste from holding tanks, such as chemical toilets, campers, trailers, septic tanks, vacuum pump trucks, etc.

“Incompatible Pollutant” - Any pollutant that is not defined as a compatible pollutant.

“Indirect Discharge or Discharge” - The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307 (b), (c), or (d) of the Act.

“Industrial User” - Any industrial or commercial establishment, manufacturing, or processing facility that discharges a non-domestic waste to a POTW.

“Industrial Waste Permit” - A permit to deposit or discharge non-domestic waste into any sanitary sewer as issued by the POTW.

“Industrial Wastes” - Any solid, liquid, or gaseous substance or form of energy discharged, permitted to flow or escaping from an industrial, manufacturing, commercial, or business process or from the development, recovery, or processing of any natural resource carried on by any person and shall further mean any waste from a non-domestic user.

“Infiltration” - The water entering a sewer system, including sewer service connections, from the ground, through such means as, but not limited to,

defective pipes, pipe joints, connections, or manhole walls.

“Infiltration/Inflow” - The total quantity of water from both infiltration and inflow without distinguishing the source.

“Inflow” - The water discharged into a sewer system, including service connections from such sources as, but not limited to, roof leaders, cellar, yard, and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, catch basins, stormwaters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration.

“Influent” - The water, together with any wastes that may be present, flowing into a drain, sewer, receptacle, or outlet.

“Inspector” – Utilities Manager or his duly authorized representative responsible for the inspection of the connection to the public sewer system and activities related to the evaluation and assurance of compliance relative to any such connection.

“Interference” – a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- A. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- B. Therefore is a cause of a violation any requirement of the City’s NPDES Permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

“Lateral Sewer” – the sewer from the building to the public sewer.

- A. “Sanitary Lateral Sewer” - A lateral sewer which conveys sanitary or industrial sewage only to the Public Sewer.
- B. “Storm Lateral Sewer” - A lateral sewer which conveys stormwater or other clear water drainage, but no sanitary or industrial sewage, to the Public Sewer.

“Local Limit” - Specific discharge limits developed and enforced by the City upon

industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

“may” – The act referred to as permissive.

“Maximum Daily Discharge Limitations” - Highest allowable daily discharge.

“Monthly Average” – The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

“Monthly Average Limit” – The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during that month.

“Medical Waste” - Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

“Minor Infraction” - A minor infraction may include, but is not limited to, one time missed reporting deadlines, short-term excursions of pollutant limitations (provided that no pass-through, interference or environmental or health damage occurs), improper disposal of non-hazardous wastes or unintentional discharge of a prohibited substance provided the discharge is a one-time occurrence and immediate steps were taken to minimize the discharge.

“Natural Outlet” - Any outlet into a watercourse, pond, 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 Section 307(c) (33 U.S. C. 1317) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 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 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.

- 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 Section 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 paragraph 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 paragraph.

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

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

“Normal Domestic Sewage” (for the purpose of determining surcharges) – wastewater or sewage having an average daily concentration as follows:

- A. BOD not more than 200 mg/l;
- B. Total Suspended Solids not more than 240 mg/l;
- C. Ammonia not more than 20 mg/l; and
- D. Phosphorus not more than 10 mg/l.

“NPDES Permit” - National Pollutant Discharge Elimination System permit setting forth conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of PL 95-217.

“Nuisance” - Anything which is injurious to health or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property.

“Operation and Maintenance Costs” – Include all costs, direct and indirect, necessary to provide adequate wastewater collection, transport, and treatment on a continuing basis and to produce discharges to receiving waters that conform with all related federal, state and local requirement. These costs include replacement.

“Other Service Charges.” – Tap charges, connection charges, area charges, and other identifiable charges other than user charges, debt service charges, and excessive strength surcharges.

“Pass Through” - The discharge of pollutants by an industrial user through the Nappanee POTW into navigable waters in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of the POTW’s NPDES Permit (including an increase in the magnitude or duration of a violation) and as defined in 40 CFR 403, Part 403.3 (n).

“Person” - Any and all persons, natural or artificial, including any individual, firm, company, municipal, or private corporation, partnership, co-partnership, joint stock company, trust, estate, association, society, institution, enterprise, governmental agency, the State of Indiana, the United States of America, or other entity, or their legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

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

“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).

“Pollution” - An alteration of the quality of the waters of the state by waste to a degree which unreasonably affects such waters for beneficial uses or facilities which serve such beneficial uses. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

“Premises” - A parcel of real estate including any single improvements thereon which is determined by the Nappanee Wastewater Department to be a single user for purposes of receiving, using, and paying for service. Any additional improvement on the same parcel of real estate which is determined by the City of Nappanee to be a user shall be separately connected to the sewerage system for the purposes of receiving, using, and paying for service.

“Pretreatment” - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the Nappanee POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, process changes, or by other means, except as prohibited by 40 CFR Section 403.6(d); and shall include all applicable rules and regulations contained in the Code of Federal Regulations as published in the Federal Register, under Section 307 of Public Law 95-217, under regulation 40 CFR Part 403 pursuant to the Act, and amendments.

“Pretreatment Requirements” - Any substantive or procedural requirement related to pretreatment, other than a Pretreatment Standard, imposed on an industrial user.

“Pretreatment Standards or Standards” - Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and pollutant limits.

“Private Sewer” – Any sewer that is not located on a public street, alley or easement dedicated to the City.

“Prohibited Discharge Standards or Prohibited Discharges” - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.3 of this Ordinance.

“Proper Operation and Maintenance” - Procedures executed in a prudent, cost-effective, and workmanlike manner which achieve the highest and/or required effluent quality of industrial discharge attainable in conformance with the best available technology and practices. Proper operation and maintenance requirements include avoidance of operational error, adherence to manual instructions, preventive maintenance, avoidance of careless or improper operation, neat accurate sampling, analysis, and records retention; storage of process chemicals, lubricants, solvents, etc., in a safe and organized manner, avoidance of accidental spillage, keeping operating logs, and any other activities which produce the desired effluent quality.

“Public Sewer” – Any sewer that is located in a public street, public alley or easement dedicated to the City.

A. “Sanitary Public Sewer” – A sewer that conveys liquid and water-carried

wastes from residences, commercial buildings, industrial plants and institutions, and to which storm, surface, and ground waters are not intentionally allowed to enter.

- B. “Storm Public Sewer”– A sewer which is designed to carry only storm water but excludes other liquid and water-carried wastes.
- C. “Combined Public Sewer” – A wastewater collection sewer owned by the City which has been designed and constructed to convey sanitary wastewaters (domestic, commercial, or industrial wastewaters) and storm water through a single pipe system to the POTW Treatment Plant.

“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 of Nappanee. This definition includes any sewers that convey wastewater to the Nappanee POTW treatment plant, but does not include pipes, sewers, or other conveyances not connected to a facility providing treatment. For the purposes of this Ordinance, “POTW” shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with Nappanee, users of the Nappanee POTW.

“Receiving Stream” - The watercourse, stream, or body of water receiving the waters finally discharged from the wastewater treatment plant.

“Replacement Costs” – The expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary during the useful life of the POTW equipment to maintain the capacity and performance for which these works were designed and constructed.”

“Septic Tank Waste” - Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

“Sewage” – The combination of the liquid and water carried wastes from residences, commercial buildings, industrial plants and institutions, including polluted cooling water. The three (3) most common types of Sewage are:

- A. “Combined Sewage” – Wastes including sanitary sewage, industrial sewage, storm water, infiltration, and inflow carried to the wastewater treatment facilities by a combined sewer;
- B. “Industrial Sewage” – A combination of liquid and water-carried wastes, discharged from any industrial establishment, and resulting from any trade or process carried on in that establishment, and shall include the wastes from pretreatment facilities and polluted cooling water; and
- C. “Sanitary Sewage” – A combination of liquid and water-carried wastes discharged from toilet and other sanitary plumbing facilities.

“Sewer” - A pipe or conduit that carries wastewater or drainage water.

- A. “Sanitary Sewer” – A sewer that conveys liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions, and to which storm, surface, and ground waters are not intentionally allowed to enter.
- B. “Storm Sewer”– A sewer which is designed to carry only storm water but excludes other liquid and water-carried wastes.
- C. “Combined Sewer” – A wastewater collection sewer owned by the City which has been designed and constructed to convey sanitary wastewaters (domestic, commercial, or industrial wastewaters) and storm water through a single pipe system to the POTW Treatment Plant.

“shall.” – The act referred to is mandatory.

“Significant Industrial User (formerly A Major Contributor)”

- A. A user subject to categorical pretreatment standards; or
- B. A user that:
 - 1. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the Nappanee POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
 - 2. 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
 - 3. Is designated as such by Nappanee 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 City of Nappanee 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.

“Significant Noncompliance” or SNC – The term “significant noncompliance” shall include any the following violations:

- A. Chronic violations of wastewater discharge limits, defined here as those in

which sixty-six percent (66%) or more of wastewater measurements taken during a six-month (6-month) period exceed (by any magnitude) a Numeric Pretreatment Standard or Requirement including Instantaneous Limits as defined by Section 2 of this Ordinance;

- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month (6-month) period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 of this Ordinance multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils, and grease, 1.2 for all other pollutants except pH);
- C. Any other discharge violation of a Pretreatment Standard or Requirement as defined by Section 2 of this Ordinance (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Utilities Manager believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Nappanee Board of Public Works & Safety's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include Best Management Practices (BMPs), that the Nappanee Board of Public Works & Safety upon recommendation of the Utilities Manager determines will adversely affect the operation or implementation of the local pretreatment program.

"Slug Load or Slug" - Slug Load or Slug Discharge - Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.3 of this Ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause

Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

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

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

"Standard Methods" - Shall mean the laboratory procedures set forth and in accordance with 40 CFR Part 136 and amendments thereto or with any other test procedures approved by EPA..

"Storm Sewer" - A sewer which is designed to carry only storm water but excludes other liquid and water-carried wastes.

"Stormwater" – water resulting from rain, melting or melted snow, hail or sleet.

"Superintendent" – The Superintendent of the municipal POTW of the City, or his or her authorized deputy, agent, or representative. The Superintendent may be the same individual as the Utilities Manager.

"Surcharge" - A charge for services in addition to the basic service charge.

"Total Suspended Solids" - Solids which either float on the surface of or are in suspension in water, sewage, or other liquid and which are removable by laboratory filtration. Their concentration shall be expressed in milligrams per liter. Quantitative determination shall be made in accordance with procedures set forth in "Standard Methods."

"Toxic Amount" - Concentrations of any pollutant or combination of pollutants which, upon exposure to or assimilation into any organism, will cause adverse effects such as cancer, genetic mutations, and physiological manifestations, as defined in standards issued pursuant to the Clean Water Act (P.L. 95-217).

"Toxicant" - A substance that is known or suspected to contain carcinogens, mutagens, or teratogens and substances present in industrial discharges with known toxic effects on human and aquatic life which is among the list of elements and compounds known as "priority pollutants" developed under the Clean Water Act.

"Unpolluted Water" - Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards

and would not be benefited by discharge to sanitary sewers and wastewater treatment facilities provided.

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

“User”- Any person that discharges, causes, or permits the discharge of wastewater into the sewerage system.

“User Charge” – A charge levied on users of the wastewater treatment works for the cost of operation and maintenance of the works pursuant to Section 204(b) of P.L. 92-500 (33 USC 1284).

“User Class” – The division of wastewater treatment customers by source, function, waste characteristics, and process or discharge similarities (such as residential, commercial, industrial, institutional, and governmental classes).

- A. “Commercial User” – Any establishment involved in a commercial enterprise, business, or service which, based on a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
- B. “Governmental User” – Any federal, state, or local governmental user of the wastewater treatment works.
- C. “Industrial User” – Any manufacturing or processing facility that discharges industrial waste to a publicly owned treatment works.
- D. “Institutional User” – Any establishment involved in a social, charitable, religious, and/or educational function which, based on a determination by the City, discharges primarily segregated domestic wastes or wastes from sanitary conveniences.
- E. “Residential User” – A user of the treatment works whose premises or building is used primarily as a residence for one or more persons, including all dwelling units, and the like.

“Utilities Manager” - The person designated by the Board of Works to supervise the operation of the Nappanee POTW, and who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative. The Utilities Manager may be the same individual as the Superintendent.

“Volatile Organic Matter” - The material in the sewage solids transformed to gases or vapors when heated at 550 degrees Centigrade for fifteen (15) to

twenty (20) minutes. Quantitative determination shall be made in accordance with procedures set forth in "Standard Methods."

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

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

"Wastewater Constituents and Characteristics" - The individual chemical, physical, bacteriological, and radiological parameters, including volume, flow rate, and such other parameters that serve to define, classify, or measure the contents, quality, quantity, and strength of wastewater.

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

"Watercourse" - A natural or artificial channel in which a flow of water occurs, either continuously or intermittently.

"Waters of the State" - Any water, surface or underground, within the boundaries of Indiana, except confined waters in sewers, tanks, etc.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Construction and Connections

- A. Private Sewers Prohibited – The construction of private sewers in any public street, alley, or public way is expressly prohibited. All sewers hereafter constructed in or along any public street, alley or public way shall be and become the property of the City and shall be and become a part of the POTW, provide that they meet all applicable standards.
- B. Connection; Application Required – Any property owner desiring to tap on to a City sewer shall file a written application for the sewer connection with the Board of Public Works and Safety.
- C. Construction or Connection Permit Required - No person shall uncover or disturb any lateral sewer or public sewer thereof without first obtaining the written permission of the Utilities Manager or his or her designee. No unauthorized person shall use, or make any connections with or opening into, any public sewer or appurtenance thereof without first satisfying all the requirements set forth herein. In the event the Utilities Manager or his or her designee deems there to be an emergency, the Utilities Manager or his or her designee may approve emergency repairs and/or connection to the public sewer.
- D. Permit Process –
 - (1) Contents of the Request for Availability of Service - Any person interested in connecting to a public sewer shall submit a written request for connection to the Board consisting of the following information:
 - (a) A detailed summary of the facilities which will discharge to public sewers;
 - (b) An estimate of projected peak and average wastewater flows which will be discharged to public sewers;
 - (c) Identification of, if any, wastes other than domestic wastewater which will be discharged. If so, specify the flow and characteristics of waste;
 - (d) The proposed implementation schedule for completion of design, acquiring necessary construction permits, start of construction, completion of construction, and date sewer service will be needed. Also, identify any schedule for phased development;
 - (e) The source of water supply, if other than City Water Utility,

and information relative to the metering of that water supply;

- (f) To the extent that an interested person desires to make multiple connections on a parcel of property, the Utilities Manager may require such information as deemed reasonably necessary by the Board of Public Works and/or Utilities Manager to determine that availability for multiple connections; and
- (g) Any additional information as requested by the Board and/or Utilities Manager.

(2) Review and Determination Regarding Request of Availability of Connection

- (a) Upon receipt of the request for availability, the Board will review the request at its next scheduled Board meeting which is not less than ten (10) days after the date the request and information is received by the Board. The Board may, however, at its own discretion, review the request at an earlier date. Receipt by the Board shall be deemed to occur when the written request and all the above referenced information is received by the office of the City's Clerk-Treasurer. Notwithstanding anything herein to the contrary, in the event of a request to review the availability of capacity for multiple connections, the Board shall review the request within sixty (60) days of receipt of all information deemed necessary and as requested by the Board and/or Utilities Manager.
- (b) At the Board meeting, the Board will authorize the issuance of a letter of availability of connection to the person submitting the application, if in the opinion of the Board, there is sufficient capacity available to all downstream sewers, lift stations and force mains to accommodate the use or connection. The letter of availability is not an approval of connection or use but is only an indication that the Public Sewer possesses significant capacity for the use or connection. The letter of availability will only be valid for twelve (12) months, and, if a permit to connect has not been issued within twelve (12) months from the date of issuance of the letter of availability, the letter of availability will be void.

(3) Requirements for Application for Permit to Connect –

Upon the issuance to a person of a letter of availability of connection, the person may submit a written application for a permit to connect, to the Board, together with the full permit fee. This

Application shall include the following information:

- (a) A copy of the state Department of Environmental Management Application for Water Pollution Control Facility Construction Permit, if required by 327 Indiana Administrative Code (IAC) Article 3 or any amended successor regulation;
- (b) A copy of the Sanitary Sewer Design Summary, if required by 327 Indiana Administrative Code (IAC) Article 3 or any amended successor regulation;
- (c) Plans and specifications for the sewer use or connection prepared, certified, and sealed by an individual qualified under applicable laws of the state, unless the preparation of plans and specifications for a particular use or connection are not otherwise required by law;
- (d) A detailed description of the property for the facility proposed to be connected to the Public Sewer, the name or names of the owners of record of the property, and any restrictions, restrictive covenants, or easements which have been placed on the property;
- (e) Evidence of proper zoning for the facility proposed to be connected to the Sewer;
- (f) If the person submitting the Application is not an individual, the articles of incorporation or other governing instrument of an entity together with name, address , and telephone number of the official of the entity who may be contacted regarding the Application;
- (g) The names and types of waste products to be discharged to the sanitary sewer system; and
- (h) Any additional information as requested by the by the Utilities Manager.

(4) Permit Application Review -

- (a) Upon receipt of the Application for permit to connect and the above referenced information, the Board will review the Application at its next scheduled Board meeting which is not less than twenty-one (21) days after the date the Application information is received by the Board. The Board may, however, at its own discretion, review the Application at an earlier date. Receipt by the Board shall be

deemed to occur after the issuance of a letter of availability when the Application and all the above referenced information is received by the City's Clerk-Treasurer.

- (b) Should the information submitted with the Application for permit to connect not reveal any reason why the permit should not be issued, the Board shall approve the Application and issue a permit to connect to the applicant.

(5) Permit Issuance –

Upon the issuance to a person of a permit to connect, and upon the issuance of a certificate by the Inspector that all construction of the proposed facilities has been properly performed and completed pursuant to the plans and specifications approved by the Board and any applicable standards adopted by the Board, the person shall submit a written request to activate connection to the inspector. For purposes of the issuance of the above referenced certificate by the Inspector, no area of the proposed facilities, including sewer lines, shall be covered by any material, earth fill, or otherwise until the Inspector or his or her designee has reviewed any such area. Upon a written request to activate connection, the Inspector may activate the connection after all the conditions of the permit to connect have been met.

E. Connection and Inspection Fees; Payment

- (1) Connection. Except as otherwise provided herein, a connection charge shall be collected from each customer prior to connecting to the POTW. Each new connection to the sewer system shall have a minimum service line of four inches. The connection charge for service lines shall be recovered in accordance with and as provided by separate ordinance.
- (2) Inspection/meter charge. Any inspection/meter charge in accordance with and as provided by such separate ordinance.

F. Old Building Sewers

Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Inspector, to meet all requirements of this chapter.

G. Materials and Procedures; Standards.

The size, slope, alignment, and materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules

and regulations of the City. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.E.F. Manual of Practice No. 9 shall apply.

H. Elevation

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

I. Connections Prohibited

Connections prohibited are further defined in Section 2.2 – Prohibited Uses.

J. Connection Standards

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 City or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.E.F. Manual of Practice No. 9. All connections shall be made gas tight and water tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.

K. Inspection

The applicant for the building sewer permit shall notify the Utilities Manager when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Inspector or his or her designated representative.

L. Excavations; Barricades; Restoration.

- (1) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard.
- (2) Streets, sidewalks, parkways, and other public property disturbed in the course of the work shall be restored in a manner, and within a reasonable time period, as deemed satisfactory to the City.

2.2 Prohibited Uses

- A. It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the City or in any area under the jurisdiction of the City any human or animal excrement, garbage, or other objectionable waste.
- B. Storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water, or unpolluted industrial process water may be admitted to Storm Public Sewers which have adequate capacity for their accommodation. No person shall use these sewers, however, without the specific permission of the City.
- C. No new connection shall be made to any Public Sanitary Sewer or Public Storm Sewer unless there is capacity available in all downstream Sewers, lift stations, force mains, and the sewage treatment plant, including capacity for BOD and suspended solids.
- D. No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the City any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this chapter and the NPDES permit.
- E. No person shall discharge or cause to be discharged to any natural outlet any wastewater or other polluted waters except where suitable treatment has been provided in accordance with provisions of this chapter and the City's NPDES permit.
- F. Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool, or other facility intended or used for the disposal of sewage.
- G. The owner of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the City and abutting on any street, alley, or right-of-way, in which there is now located a Public Sanitary Sewer of the City, is required at his or her expense to install suitable toilet facilities therein and to connect these facilities directly with the proper public sewer in accordance with the provisions of this chapter, within sixty (60) days after date of official notice to do so, provided that the Public Sewer is within 300 feet of the property line.
- H. No person shall discharge or cause to be discharged to any Public Sanitary Sewer, either directly or indirectly, stormwaters, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water, or unpolluted industrial process water. The City shall require the removal of unpolluted wastewater collection or treatment facility if that

removal is cost-effective and in the best interests of all users of those facilities.

- I. No Person shall construct a Public Combined Sewer at any location within the City of Nappanee which is outside the Existing Combined Sewer Area. For purposes of this Ordinance, the term "Existing Combined Sewer Area" is that area enclosed by the red boundary on Appendix A which is attached hereto and made a part hereof and which is entitled "Appendix A: Combined Sewer System Boundary Map".
- J. Any new building constructed in the Existing Combined Sewer Area shall have its inflow connection separate and distinct from the Sanitary Lateral Sewer connection to the POTW to facilitate disconnection of the former if a separate Public Storm Sewer subsequently becomes available.

2.3 Prohibited Discharge Standards

- A. General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference with the operation or performance of the POTW. These general prohibitions apply to all users of the Nappanee POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific Prohibitions - No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the Nappanee POTW, including but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.5 or more than 9.0, or otherwise causing corrosive structural damage to the Nappanee POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in a sewer or other interference with the operation of the POTW;
 - (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 in the Nappanee POTW;
 - (5) Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference or damage to the POTW, but in no

case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees 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 Nappanee POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by the Nappanee Board of Public Works & Safety upon recommendation of the Utilities Manager in accordance with Section 3.4 of this Ordinance.
- (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) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Board of Public Works & Safety upon recommendation of the Utilities Manager;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the Nappanee Board of Public Works & Safety upon recommendation of the Utilities Manager 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 Nappanee POTW;

- (17) Any water or waste containing fats, oils, and/or greases of mineral or petroleum in origin in excess of 100 mg/l or of animal or vegetable in origin in excess of 200 mg/l;
- (18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the Nappanee POTW, or at any point in the Nappanee POTW, over 10 percent (10%) of the Lower Explosive Limit of the meter.
- (19) Any garbage that has not been properly ground or shredded. The installation and operation of any garbage grinder equipped with a motor of three-quarters horsepower (0.76 HP metric) or greater shall be subject to the review and approval by the Utilities Manager;
- (20) Any ashes, cinders, sand, mud, straw, shavings, wood, metal, glass, rags, feathers, tar, plastics, paunch manure, butchers' offal, or any solid or viscous substances capable of causing obstruction to the flow in sewers or other interference with the proper operation of the sewerage system or the wastewater treatment plant;
- (21) Any waters or wastes containing acid metallic pickling wastes or concentrated plating solutions; and
- (22) Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides, and any other substances which the City, the State, or EPA has notified the user is a fire hazard or a hazard to the system.

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 Nappanee POTW.

2.4 National Categorical Pretreatment Standards

When applicable, compliance is required with all applicable pretreatment standards and requirements by indirect dischargers. The categorical pretreatment standards found at 40 CFR, Chapter I, 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 Utilities Manager 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 Utilities Manager

shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

- C. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

2.5 State Pretreatment Standards

State pretreatment standards are located in 327 Indiana Administrative Code Article 5. When applicable, compliance is required with all applicable pretreatment standards and requirements by indirect dischargers

2.6 Pollutant Concentration Guidelines and Limits

The Nappanee Utilities Manager has the legal authority to establish local limits pursuant to 40 CFR 403.5 (c) for a pollutant contributed by an industrial user that has caused or is likely to cause interference or pass through at the POTW and the recurrence of the contributed pollutant's effect on the POTW. No person shall discharge wastewater containing in excess of the following. Persons discharging wastewater in excess of the pollutant limits shall be subject to fines and service termination.

<u>Pollutant Parameter</u>	<u>Daily Maximum Limit</u>
Arsenic	8.64 mg/l
Cadmium	0.11 mg/l
Chromium, total	2.77 mg/l
Hexavalent Chromium	1.76 mg/l
Copper	3.38 mg/l
Cyanide	0.55 mg/l
Fats, Oils & Grease (mineral or petroleum)	100 mg/l
Fats, Oils & Grease (animal or vegetable)	200 mg/l
Lead	0.69 mg/l
Molybdenum	23.75 mg/l
Nickel	3.98 mg/l
Selenium	0.32 mg/l
Silver	0.43 mg/l
Total Toxic Organics (TTO)	1.0 mg/l
Zinc	2.61 mg/l
pH range	5.5 – 9.0

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

Best Management Practices. Under the direction of the Utilities Manager, BMP's may be required as part of the Local Limits under this Section and may include,

but are not limited to the following: treatment requirements; operating procedures and practices to control site runoff, spillage or leaks, sludge or waste disposal; or drainage from raw materials storage.

2.7 Waste Strength and Content; Surcharges

In order that the rates and charges may be justly and equitably adjusted to the service rendered to users, the City shall base its charges not only on the volume, but also on strength and character of the stronger than normal domestic sewage and wastes which it is required to treat and dispose of. The City shall require the user to determine the strength and content of all Sewage discharged either directly or indirectly to the POTW, in that manner, by that method, and at those times as the City may deem practicable in light of the conditions and attending circumstances of the case, in order to determine the proper charge. The user shall furnish a central sampling point available to the City at all times.

Additional charges for treating stronger than normal domestic waste are provided by such separate ordinance and shall be based on the following thresholds:

- A. Total Suspended Solids – shall be surcharged in excess of 240 milligrams per liter of fluid.
- B. BOD – shall be surcharged in excess of 200 milligrams per liter of fluid.
- C. Ammonia – shall be surcharged in excess of 20 milligrams per liter of fluid.
- D. Phosphorus – shall be surcharged in excess of 10 milligrams per liter of fluid.

The determination of suspended solids, five-day biochemical oxygen demand, ammonia, and phosphorus contained in the waste shall be in accordance with the latest copy of Standard Methods for the Elimination of Water, Sewage, and Industrial Wastes, as written by the American Public Health Association, the American Water Works Association, and the Water Environment Federation, and in conformance with Guidelines Establishing Test Procedures for Analysis of Pollutants: 40 CFR 136.

2.8 City's Right of Revision

The City may establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the Nappanee POTW. The City of Nappanee may revise the limitations if the Nappanee POTW monitoring data indicates interference or increased Nappanee POTW operating tolerance to pollutants. The City may also accept or deny any new or increased dischargers from any indirect discharger. The City will require compliance with all applicable pretreatment standards and requirements by all indirect dischargers.

2.9 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 Utilities Manager 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.

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all categorical pretreatment standards, pollutant concentration guidelines and limits, and the prohibitions set out in Section 2 of this Ordinance within the time limitations specified by EPA, the State, or the Nappanee Board of Public Works & Safety, 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 Utilities Manager for review, and shall be acceptable to the Utilities Manager 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 Nappanee POTW under the provisions of this Ordinance.

The user shall maintain suitable operating records and shall submit to the Utilities Manager such monthly summary reports of the character of the influent and effluent as the latter may prescribe.

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Utilities Manager 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 Nappanee POTW and determine the user's compliance with the requirements of this Ordinance.
- B. The Utilities Manager may require any person discharging into the Nappanee 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 shall be provided when, in the opinion of the Utilities Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Utilities Manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

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

3.3 Accidental Discharge/Slug Control Plans

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

3.4 Hauled Wastewater

- A. Septic tank waste may be introduced into the Nappanee POTW only at locations designated by the Utilities Manager, and at such times as are established by the Utilities Manager. Such waste shall not violate Section 2 of this Ordinance or any other requirements established by the Nappanee POTW. The Utilities Manager may require septic tank waste haulers to obtain wastewater discharge permits.
- B. The Utilities Manager may require haulers of industrial waste to obtain wastewater discharge permits. The Utilities Manager shall require generators of hauled industrial waste to obtain wastewater discharge permits. The Utilities Manager may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.
- C. Industrial waste haulers may discharge loads only at locations designated by the Utilities Manager. No load may be discharged without prior consent of the Utilities Manager. The Utilities Manager may collect samples of

each hauled load to ensure compliance with applicable standards. The Utilities Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

- D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.
- E. Septic tank waste and industrial waste haulers must discharge amounts that will not cause pass through and interference of the POTW.

SECTION 4 – INDUSTRIAL WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Industrial Wastewater Analysis

When requested by the Utilities Manager, a user must submit information on the nature and characteristics of its wastewater within ten (10) days of the request. The Utilities Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Industrial Wastewater Discharge Permit Requirement

- A. No significant industrial user shall discharge wastewater into the Nappanee POTW without first obtaining a wastewater discharge permit from the Utilities Manager, except that a significant industrial user that has filed a timely application pursuant to Section 4.3 of this Ordinance may continue to discharge for the time period specified therein.
- B. The Utilities Manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Ordinance.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards of requirements or with any other requirements of Federal, State, and local law.

4.3 Industrial Wastewater Discharge Permitting: 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 Ordinance and who wishes to continue such discharges in the future shall not cause or allow discharges to the POTW to continue after the effective date of this Ordinance except in accordance with a wastewater discharge permit issued by the Utilities Manager.

4.4 Industrial Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the Nappanee POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.5 of this Ordinance, must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

4.5 Industrial Wastewater Discharge Permit Application Contents

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

- A. All information required by Section 6.1 of this Ordinance;
- B. 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 Nappanee POTW;
- C. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- D. Each product produced by type, amount, process or processes, and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. 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;
- G. Time and duration of discharges; and
- H. Any other information as may be deemed necessary by the Utilities Manager to evaluate the wastewater discharge permit application.

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

4.6 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.”

4.7 Industrial Wastewater Discharge Permit Decisions

The Utilities Manager will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Utilities Manager will determine whether or not to issue a wastewater discharge permit. The Utilities Manager may deny any application for a wastewater discharge permit.

SECTION 5 – INDUSTRIAL WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Utilities Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Utilities Manager 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 Nappanee POTW.

A. Industrial Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the City in accordance with Section 5.5 of this Ordinance, 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 including any applicable Best Management Practices;
- (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;
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and
- (6) Requirements to control slug discharges, if determined by the Utilities Manager to be necessary.

- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the Nappanee POTW;
 - (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the Nappanee POTW;
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (8) Other conditions as deemed appropriate by the Utilities Manager to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

5.3 Wastewater Discharge Permit Appeals

The Utilities Manager shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Nappanee Board of Public Works & Safety to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Nappanee Board of Public Works & Safety fails to act within sixty (60) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the circuit or superior Courts of the county in which the wastewater discharge in question enters the POTW.

5.4 Wastewater Discharge Permit Modifications

The Utilities Manager 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 City's POTW, City 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. 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.

5.5 Wastewater Discharge Permit Transfer

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

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. 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.

5.6 Wastewater Discharge Permit Revocation

The Nappanee Board of Public Works & Safety upon recommendation of the Utilities Manager may revoke a wastewater discharge permit after a Show Cause Hearing as defined in Section 10.4 and after good cause is established by the Board of Public Works & Safety. Good cause may include, but is not limited to, the following reasons:

- A. Failure to notify the Utilities Manager of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Utilities Manager of changed conditions pursuant to Section 6.5 of this Ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Utilities Manager timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;

- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance.

Industrial 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.

5.7 Wastewater Discharge 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 Section 4.5 of this Ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

5.8 Regulation of Waste Received from Other Jurisdictions

- A. If another municipality, or user located within another municipality, contributes wastewater to the Nappanee POTW, the Nappanee Board of Public Works & Safety upon recommendation of the Utilities Manager shall enter into an intermunicipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A, above, the Nappanee Board of Public Works & Safety upon recommendation of the Utilities Manager shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the Nappanee POTW by the contributing municipality;
 - (2) An inventory of all users located within the contributing municipality that are discharging to the Nappanee POTW; and
 - (3) Such other information as the Utilities Manager may deem necessary.
- C. An intermunicipal agreement, as required by paragraph A, above, 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 Ordinance and local limits which are at least as stringent as those set out in Section 2.6 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 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 Nappanee POTW and which of these activities will be conducted jointly by the contributing municipality and the Nappanee POTW.
- (4) A requirement for the contributing municipality to provide the Utilities Manager 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 Nappanee POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the Utilities Manager 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 Utilities Manager; and
- (8) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

SECTION 6 – INDUSTRIAL REPORTING REQUIREMENTS

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 Nappanee POTW shall submit to the Control Authority and the Utilities Manager a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Control Authority and the Utilities Manager 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 Nappanee POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the Nappanee 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, Control Authority or Utilities Manager, 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.
 - (d) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
 - (e) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority and the Utilities Manager.
 - (f) Sampling and analysis shall be performed in accordance with Section 6.10.
 - (g) The Control Authority and/or the Utilities Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures; and
 - (h) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- (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 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.

C. Use of Representative Analysis. Until an adequate analysis of a representative sample of user's wastes has been obtained, the Control Authority and/or Utilities Manager shall, for the purpose of this Ordinance, make a determination of the character and concentration of the user's wastes by using data based on analysis of similar processes or data for this type of business that are available from the U.S. Environmental Protection Agency or from industry-recognized authoritative sources. This method, if selected by the Control Authority and/or Utilities Manager, shall continue at the Control Authority's and/or the Utilities Manager's pleasure or until an adequate analysis has been made.

D. Solvent Management Plan. Any industrial user who discharges solvents must submit a solvent management plan that specifies to the Control Authority's and/or the Utilities Manager's satisfaction: (1) the toxic organic compounds used; (2) the method of disposal used instead of dumping, such as reclamation, contract hauling, etc.; and (3) procedures for assuring that toxic organics do not spill or leak into the POTW's wastewater facilities, in lieu of monitoring for total toxic organics (TTO). Further, the industrial user requesting the TTO monitoring waiver must make the following certification:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standards for total toxic organics (TTO), I certify that, to the best of my knowledge and belief, no dumping of concentrated toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the solvent management plan submitted to the control authority."

E. Special Agreements. No statement contained in this article shall be construed as prohibiting any special agreement or arrangement between the Nappanee Board of Public Works & Safety and any person whereby an industrial waste of unusual strength or character may be accepted by the Nappanee POTW for treatment whether with or without pretreatment, provided that such agreement does not violate National Categorical Pretreatment Standards for the specific category of industrial user,

provided that there is no impairment of the functioning of the POTW by reason of the admission of such wastes and provided that no extra costs are incurred by the Nappanee POTW without recompense by the person.

6.2 Compliance Scheduled Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(7) of this Ordinance:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- B. No increment referred to above shall exceed nine (9) months;
- C. The user shall submit a progress report to the Control Authority and the Utilities Manager 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 Control Authority and the Utilities Manager.

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 Control Authority and the Utilities Manager a report containing the information described in Section 6.1(B) (4-6) of this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(C), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this Ordinance.

6.4 Periodic Compliance Reports

- A. All significant industrial users shall, within thirty (30) days of the end of the 2nd and 4th quarters of each calendar year or more frequently as determined necessary and prudent by the Control Authority and/or the Utilities Manager, 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. In cases where the pretreatment standard requires compliance with a Best Management Practice or pollution prevention alternative, the user must submit documentation required by the Control Authority, Utilities Manager or the pretreatment standard necessary to determine the compliance status of the user. 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 requirements in this section monitors any pollutant more frequently than required by the Control Authority and/or the Utilities Manager, using the procedures prescribed in Section 6.11 of this Ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each user must notify the Control Authority and the Utilities Manager 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 sixty (60) days before the change.

- A. The Utilities Manager 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 Utilities Manager 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.

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 Utilities Manager 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.

Such notification will not relieve users of liability for any expense, loss, or damage to the sewerage system, wastewater treatment plant, or treatment process, or any fines imposed by the City of Nappanee.

- B. Within five (5) days following such discharge, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Nappanee POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this Ordinance.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees 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.
- D. Significant Industrial Users are required to notify the Control Authority and the Nappanee Utilities Manager immediately of any changes at its facility affecting the potential for a Slug Discharge

6.7 Reports from Unpermitted Users

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

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Control Authority and the Utilities Manager 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 Control Authority and the Utilities Manager within thirty (30) days after becoming aware of the violation.

6.9 Notification of the Discharge of Hazardous Waste

The Nappanee POTW prohibits the discharge of hazardous waste. In the event that a Hazardous Waste is discharged to the Nappanee POTW, the Control Authority and the Utilities Manager or his or her designee must be notified

immediately by the user.

6.10 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 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.

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 infeasible, the Control Authority and/or Utilities Manager may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, and cyanide must be obtained using grab collection techniques.
- C. Except as indicated in Section B and D, the User must collect wastewater samples using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority and/or Utilities Manager. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority and/or City of Nappanee, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, the samples may be composited in the laboratory or in the field; for oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority and/or Nappanee Wastewater Department, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- D. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, and oil and grease for facilities for which historical sampling data

do not exist; for facilities for which historical sampling data are available, the Control Authority and/or Utilities Manager may authorize a lower minimum. For the reports required by Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

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.

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; the results of such analyses; and if applicable, any record-keeping documentation associated with Best Management Practices. 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, or where the user has been specifically notified of a longer retention period by the Control Authority or the Utilities Manager.

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The Utilities Manager or duly authorized representative (Inspector) bearing the proper identification and credentials shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this Ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Inspector ready access to all parts of the premises for the purposes of inspections, surveillance, record review, monitoring as necessary to determine compliance with this Ordinance, if applicable or any industrial wastewater pretreatment permit.

- 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 Inspector will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Inspector shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Utilities Manager may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
- 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 Utilities Manager and shall not be replaced. The costs of clearing such access shall be borne by the user.
- E. Unreasonable delays in allowing the Inspector access to the user's premises shall be a violation of this Ordinance.
- F. Inspection of industrial users for the purposes of verifying industry self-monitoring information will be done at such intervals as determined by the Utilities Manager to be necessary to detect prohibited discharges. The minimum surveillance schedule to be conducted by the POTW, if deemed warranted by the Utilities Manager, will be semi-annually.
- G. A seven (7) day monitoring period shall be allowed if deemed warranted in order to obtain representative data. The surveillance period will normally be for a period of one (1) day representative of the normal production day, but can be of longer duration at the discretion of the Utilities Manager. In cases where the surveillance period extends for a greater number of

consecutive days than seven (7), the Nappanee POTW shall have the prerogative of selecting the seven (7) consecutive days of its choice for establishing rates and charges.

- H. The Nappanee POTW may sample and conduct inspection activities of SIU's contributing and non-SIU industries when deemed necessary by the Utilities Manager to verify, independent of information supplied by industrial users, compliance or non-compliance with applicable pretreatment standards. For scheduled surveillance, the user shall be given the option of splitting the obtained sample such that it may be analyzed by the user.
- I. While performing the necessary work on private properties referred to above, the Utilities Manager or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the user, and the user shall be held harmless for injury or death to the City employees and the City shall indemnify the User against loss or damage to its property by City employees and against liability claims and demands for personal injury or property damage asserted against the user and growing out of the gauging and sampling operation, except as they may be caused by negligence or failure of the user to maintain safe conditions.
- J. The Utilities Manager and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties for the following activities, including, but not limited to inspection, observation, measurement, sampling, repair, and maintenance. All entry and subsequent work, if any, on an Easement, shall be done in full accordance with the terms of the duly negotiated Easement pertaining to the private property involved.

7.2 Search Warrants

If the Utilities Manager or his designee has been refused access to a building, structure or property or any part thereof, and if the Utilities Manager has demonstrated probable cause to believe that there may be a violation of this Ordinance or that there is a need to inspect as part of a routine inspection program of the City of Nappanee designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community or the environment, then upon application by the City Attorney, a judge of a circuit or superior court of the county in which the wastewater discharge in question enters the POTW shall issue a search and/or seizure warrant describing the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Utilities Manager in the company of a uniformed police officer of the City of Nappanee. In the event of an emergency affecting public health and safety or environmental quality, inspections shall be made without the issuance of a warrant.

SECTION 8 - 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 Utilities Manager'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 Utilities Manager that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law or would otherwise be exempt from disclosure pursuant to applicable law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be exempt from disclosure, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public. Notwithstanding anything herein to the contrary, any such information and/or data shall be made immediately available if access to such information and/or data is specifically required by a State or Federal statute, rule or regulation or is ordered by a court (with appropriate jurisdiction) under the rules of discovery.

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Nappanee Wastewater Department shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the Nappanee POTW, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term “significant noncompliance” shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month (6-month) period exceed (by any magnitude) a Numeric Pretreatment Standard or Requirement including Instantaneous Limits as defined by Section 2;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month (6-month) period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, COD, TSS, fats, oils, and grease, 1.2 for all other pollutants except pH);
- C. Any other discharge violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Utilities Manager believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Nappanee Board of Public Works & Safety’s exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or

- H. Any other violation(s), which may include Best Management Practices (BMPs), that the Nappanee Board of Public Works & Safety upon recommendation of the Utilities Manager determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10 - ENFORCEMENT

10.1 Minor Infraction

A minor infraction may include, but is not limited to, one time missed reporting deadlines, short-term excursions of pollutant limitations (provided that no pass-through, interference or environmental or health damage occurs), improper disposal of non-hazardous wastes or unintentional discharge of a prohibited substance provided the discharge is a one-time occurrence and immediate steps were taken to minimize the discharge. When the Utilities Manager finds that any user has experienced a minor infraction of this Code article or any permit issued hereunder, the Utilities Manager may, at the Utilities Manager's discretion, notify the user of the infraction by telephone call or via electronic mail (e-mail). Said telephone call or e-mail may be considered the first step in any enforcement action that may subsequently occur. The telephone call or e-mail shall:

- A. Notify the user of the type and duration of the infraction.
- B. Request that the user respond to the notification in writing within a period of time required by the Utilities Manager.

Telephone or e-mail notification will be waived in the event of repeated violations or intentional discharges of prohibited substances. Enforcement activity in the case of more serious or repeat violations shall be initiated through a Notice of Violation listing the type, date and duration of the violation and a requirement for a written response.

10.2 Notification of Violation

Whenever the Utilities Manager finds that any user has violated or is violating this Ordinance, a discharge permit, any prohibition, limitation or requirement, or any order issued hereunder, the Utilities Manager or the Utilities Manager's agent may serve upon the user a written notice of violation setting forth the nature of the violation(s). The notice may also include specific corrective actions and compliance schedules to which the Utilities Manager requires the user to adhere. Within ten (10) days of the date of receipt of this notice, the user shall submit to the Utilities Manager a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, consistent with the terms of the notice (to include specific corrective actions and compliance schedules). Compliance with the conditions, requirements and terms of this notice shall not be construed to relieve the user of its obligation to comply with its discharge permit which remains in full force and effect nor does such compliance excuse violations occurring before or after receipt of this notice of violation. Additional enforcement action may be pursued if corrective actions are not accomplished as scheduled and the Utilities Manager expressly reserves the right to seek any and all remedies available to it under this Ordinance for any violations cited by the notice. Nothing in this Ordinance shall limit the authority of the City of Nappanee

to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

10.3 Consent Orders

The Utilities Manager is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance including, but not limited to, compliance schedules, stipulated fines or remedial actions, and signatures of the Utilities Manager and user representatives. Consent orders shall have the same force and effect as any other orders issued by the Board of Public Works and Safety under this Ordinance.

10.4 Show Cause Order and Hearing

A. The Utilities Manager may serve upon any user who causes, allows or contributes to a violation of this Ordinance article, its discharge permit, or any order issued hereunder, or an unauthorized discharge to enter the POTW a written show cause order. Said order must be given at least ten (10) days prior to the hearing in accordance with this Ordinance. The show cause order must contain:

- (1) The name and address of the user to whom the show cause order is issued;
- (2) The address, or the parcel number, of the property that is the subject of the order, if different from 10.4.A. above;
- (3) The nature of the violation(s);
- (4) An order to the user to appear before the Board of Public Works and Safety to show cause as to why the City should not initiate formal enforcement action against the user or discontinue service to the user;
- (5) A statement indicating the exact time and place of the hearing, and that the person to whom the show cause order was issued is entitled to appear at the hearing with or without legal counsel, present evidence, cross examine opposing witnesses and present arguments;
- (6) A statement of the proposed enforcement action and the reasons therefore;
- (7) A statement indicating that a failure to comply with any of the conditions, requirements or terms of the show cause order shall constitute a violation of this Code article and may subject the user to such other enforcement response that may be appropriate;

- (8) The name, address and telephone number of the Utilities Manager of the City.
- B. The Board of Public Works and Safety may itself conduct a hearing and take the evidence, or may designate any of its members or any officer or employee of the Wastewater Department to:
- (1) Issue in the name of the Board of Public Works and Safety notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing;
 - (2) Take the evidence;
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board of Public Works and Safety for action thereon.
- C. A hearing must be held relative to each show cause order of the City and the hearing shall be held on a business day no earlier than ten (10) days after notice of the show cause order is given. In this regard, the show cause order shall be served upon the user in accordance with Section 10.14 of this Ordinance and the show cause order is effective on the date considered given in accordance with Section 10.15 of this Ordinance. At any hearing held pursuant to this Ordinance, testimony taken must be under oath and recorded stenographically or mechanically. The person to whom the show cause order was issued, or any other person with an interest in the proceedings may appear in person or by counsel at the hearing. Whether or not a duly notified user appears as noticed, enforcement action may be pursued as appropriate. Each person appearing at the hearing is entitled to present evidence, cross examine opposing witnesses and present arguments. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.
- D. After the Board of Public Works and Safety has reviewed the evidence and if it finds any violation(s) of this Ordinance, any prohibition, limitation or requirement contained herein or of the user's discharge permit, or of any order issued hereunder, it shall make findings and it may issue to the user responsible for the discharge any orders or directives as are necessary and appropriate. Issuance of a show cause order shall not be a prerequisite to taking any other action against a user.

10.5 Compliance Orders

When the Utilities Manager finds that a user has violated or continues to violate this Ordinance, discharge permits or orders issued hereunder, or any other pretreatment standard or requirement, he may issue an order to the user

responsible for the discharge directing that the user come into compliance within a specified time period. If the user does not come into compliance within the specified time period, sewer service shall be discontinued to the user unless and until adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Such service shall not recommence until such time as the user is able to demonstrate that it can and will maintain compliance. Failure to comply with this compliance order may subject the user to having its connection to the sanitary sewer sealed by the City of Nappanee and assessed the costs therefore. Compliance orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation of pretreatment technology, additional self-monitoring and improved management practices designed to minimize the amount of pollutants discharged to the POTW. A compliance order may not extend the deadline for compliance established for a federal pretreatment standard or requirement, nor does a compliance order release the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a prerequisite to taking any other action against the user.

10.6 Cease and Desist Orders

When the Utilities Manager finds that a user is violating this Ordinance, the user's discharge permit, any order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Utilities Manager 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;
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

In an emergency, the order to cease and desist may be given by the Utilities Manager by telephone. In non-emergency situations, the cease and desist order may be used to suspend or revoke discharge permits. Issuance of a cease and desist order shall not be a prerequisite to taking any other action against the user.

10.7 Revocation Order

When the Utilities Manager finds that a user is violating this section, the user's discharge permit, any order issued hereunder, any other pretreatment standard or requirement, or any order or directive issued by the Board of Public Works and Safety pursuant to a show cause hearing, the Utilities Manager may issue an order to the user revoking the user's discharge permit and directing the user to immediately stop or eliminate non-domestic contribution into the City of Nappanee's POTW. Failure to comply with this order may subject the user to

having any or all connections to the sanitary sewer sealed by the City of Nappanee and assessed the costs therefore. Revocation orders may be issued by the Utilities Manager pursuant to Section 5.6 and shall not be a prerequisite to taking any other action against the user.

10.8 Emergency Suspensions

- A. The City of Nappanee may, upon informal notice to the user, immediately suspend a user's discharge whenever such suspension is necessary, in the opinion of the Utilities Manager, in order to halt or prevent an actual or threatened discharge which presents or may present an immediate or substantial endangerment to human health, to the welfare of the public, or to the environment, that threatens to interfere with the operation of the POTW or is causing or will cause the City of Nappanee to violate any condition of its NPDES permit.
- B. Any user notified of a suspension of the waste water treatment service and/or the discharge permit shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Utilities Manager shall take such steps as deemed necessary, including, but not limited to, immediate severance of the sewer connection, to minimize damage to the POTW system or endangerment to any individuals or to the environment.
- C. The Utilities Manager shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City of Nappanee that the period of endangerment has passed, unless the termination proceedings set forth in Section 10.10 are initiated against the user.
- D. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Utilities Manager prior to the date of any show cause or termination hearing.
- E. Compliance with the conditions, requirements and terms of the suspension order shall not be construed to relieve the user of its obligation to comply with its discharge permit which remains in full force and effect nor does such compliance excuse previous violations. Additional enforcement action may be pursued if corrective actions are not accomplished as required and the City expressly reserves the right to seek any and all remedies available to it under this Ordinance for any violations cited by the suspension order. Further, a failure to comply with any of the conditions, requirements or terms of the suspension order shall constitute a further violation of this Ordinance and may subject the user to such other enforcement response that may be appropriate.

- F. The Utilities Manager may deny or condition new or increased discharges by a user or changes in the nature of pollutants discharged by the user if the discharge does not meet applicable pretreatment standards or will cause the City of Nappanee to violate its NPDES permit.
- G. Nothing in this Ordinance shall be interpreted as requiring a hearing prior to any emergency suspension.

10.9 Termination of Discharge

In addition to the provisions of Section 5.6 of this Ordinance, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the pretreatment standards in Section 2 of this Ordinance.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.4 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Nappanee Board of Public Works & Safety shall not be a bar to, or a prerequisite for, taking any other action against the user.

10.10 Right of Appeal; Board of Public Works and Safety

- A. Any user or applicant for any permit filed pursuant to this Ordinance affected by any decision, action, or determination, including Cease and Desist Orders, made by any Nappanee representative; e.g., Inspector, Utilities Manager, Board, interpreting or implementing the provisions of this Ordinance, or any permit issued herein, or the denial of any application for permit provided in this Ordinance, may file with the Utilities Manager a written request for reconsideration within thirty (30) days of such a decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration.
- B. If the ruling made by the Utilities Manager is unsatisfactory to the person requesting reconsideration, he may within thirty (30) days from the notification of the Utilities Manager, file a written appeal to the Nappanee Board of Public Works & Safety. The written appeal shall be heard by the

Board within thirty (30) days from the date of filing. The Nappanee Board of Public Works & Safety shall make a final ruling on the appeal within thirty (30) days of the close of the meeting. The Nappanee Board of Public Works & Safety's decision, action, or determination shall remain in effect during such period of reconsideration.

- C. The findings of the Board of Public Works and Safety shall be in writing and shall be available to the public upon request. However, neither the City nor the Board of Public Works and Safety is required to give any person notice of the findings and orders issued thereto other than the user or applicant to whom said orders may be directed. The findings and any orders issued by the Board of Public Works and Safety shall be served upon the user in accordance with Section 10.14 of this Ordinance and the notice is effective on the date considered given in accordance with Section 10.15 of this Ordinance.
- D. Compliance with the conditions, requirements and terms of any of the orders issued by the Board of Public Works and Safety pursuant to Section 10.4.D. of this Ordinance will not be construed to relieve the user of its obligation to comply with its waste water contribution permit which remains in full force and effect nor does such compliance excuse previous violations. Additional enforcement action may be pursued if corrective actions are not accomplished as scheduled and the City expressly reserves the right to seek any and all remedies available to it for any violation found by the Board of Public Works and Safety. Further, a failure to comply with any of the conditions, requirements or terms of the orders shall constitute a further violation of this Ordinance and may subject the user to such other enforcement response that may be appropriate.
- E. Any action taken by the Board of Public Works and Safety under this Ordinance is subject to review by the Circuit or Superior Court of the County out of which the matter dealt with by the Board of Public Works and Safety arose, on the request of any user or applicant to whom the respective order was issued or to any interested party. Any person requesting judicial review under this Ordinance section must file a verified complaint with the Clerk of the appropriate Circuit or Superior Court within ten (10) days of the date when the Board of Public Works and Safety issued its findings of fact and accompanying order. An appeal under this Ordinance section is an action de novo. The court may affirm, modify or reverse the action taken by the Board of Public Works and Safety.

10.11 Injunctive Relief

Whenever a user has violated a pretreatment standard or requirement or continues to violate the provisions of this Ordinance, discharge permits or orders issued hereunder, or any other pretreatment requirement, or any order or directive issued by the Board of Public Works & Safety pursuant to this Ordinance, the Utilities Manager, or his or her designee, may petition a judge of

a circuit or superior court of the county from which the action sought to be restrained or the action sought to be compelled has arisen, through the City of Nappanee Attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the discharge permit, order, or other requirements imposed by this Ordinance on activities of the Industrial User. Such other action as appropriate for legal and/or equitable relief may also be sought by the City of Nappanee. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

10.12 Civil Penalties

- A. Any user which has violated or continues to violate this Code article, any order or discharge permit issued hereunder, or any other pretreatment standard or requirement shall be liable to the City of Nappanee for a civil penalty of not more than \$2,500 per day, per violation for a first violation nor more than \$7,500 per day, per violation for subsequent violations, in accordance with IC 36-1-3-8(a)(10)(B).
- B. The City of Nappanee 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 City of Nappanee, including fines, penalties, costs or damages imposed upon the City of Nappanee by the State of Indiana, EPA or other governmental entities pursuant to this Ordinance.
- C. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, 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 prerequisite for taking any other action against a user.

10.13 Remedies Nonexclusive

The provisions set forth in Section 10 of this Ordinance are not exclusive remedies. The City of Nappanee reserves the right to 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 of Nappanee's enforcement response plan. However, the City of Nappanee reserves the right to take other action against any user when the circumstances warrant. Further, the City of Nappanee is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

10.14 Service.

- A. Any notice of noncompliance, notice of orders, notice of any other directives issued by the City of Nappanee or by the Board of Public Works and Safety may be served upon any principle executive, general partner, corporate officer, or the individual in charge of the user's waste water treatment program as designated by the user, and shall be given by either:
 - (1) Sending a copy of the notice, order or statement by registered or certified mail to the place of business or employment of the person to be notified, with return receipt requested; or
 - 2) Delivering a copy of the notice, order or statement personally to the person to be notified; or
 - 3) Leaving a copy of the notice, order or statement at the place of business or employment of the person to be notified.
- B. When service is made by any of the means described, the person making service must make an affidavit stating that he has made this service, the manner in which the service was made, to whom the notice, order or statement was issued, the nature of the notice, order or statement and the date of service. The affidavit must be placed on file with the City of Nappanee.
- C. If, after reasonable effort, service is not obtained by a means described above in Subsection A. of this section 10.14, service may be made by publishing a notice of the notice, order or statement in each newspaper which the City of Nappanee has currently designated as a newspaper in which it shall publish legal notices. Publication may be made on consecutive days. If service of an order is made by publication, the publication must include a statement indicating generally what action is required by the notice, order or statement and that the exact terms of the notice, order or statement may be obtained from the City of Nappanee.

10.15 Effective date of notice, order or statement.

The date when the notice, order or statement is considered given is as follows:

- A. If the notice, order or statement is delivered personally or left at the usual place of business or employment, notice is considered given on the day when the notice, order or statement is delivered to the person or left at the person's usual place of business or employment.
- B. If the notice, order or statement is mailed, notice is considered given on the date shown on the return receipt, or, if no date is shown, on the date when the return receipt is received by the City of Nappanee.
- C. Notice by publication is considered given on the date of the second day that publication was made.

SECTION 11 - SUPPLEMENTAL ENFORCEMENT ACTION

11.1 Performance Bonds

The Nappanee Board of Public Works & Safety may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provisions of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a bond as deemed satisfactory to the Board, payable to the City of Nappanee, in a sum not to exceed a value determined by the Utilities Manager to be necessary to achieve consistent compliance and payable upon occurrence of damages to the POTW.

11.2 Liability Insurance

The Nappanee Board of Public Works & Safety may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard of 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. Any such financial assurances in the form of insurance policies shall name the City as an additional insured.

11.3 Water Supply Severance

Whenever 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, water service to the user may be severed by the Board. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply. A users' ability to utilize the POTW shall be contingent based on the user's timely payment of the bill issued by the City for water and sewer service. Failure to make such timely payment shall subject the user to the shut-off of water and wastewater services.

11.4 Public Nuisances

A violation of any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Nappanee Board of Public Works & Safety. Any person(s) creating a public nuisance shall be subject to the provisions of the City Code governing such nuisances, including reimbursing the City of Nappanee for any costs incurred in removing, abating, or remedying said nuisance.

11.5 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 City of Nappanee or the Nappanee Wastewater Department. Existing contracts for the sale of goods or services to the City of Nappanee or City held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Nappanee Board of Public Works & Safety.

SECTION 12 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.1 Upset

- A. For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An upset occurred and the user can identify the cause(s) of the upset;
 - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the Utilities Manager within twenty-four (24) hours of becoming aware of the upset, if this information is provided orally, a written submission must be provided within five (5) days:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times, or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

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

12.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.3(A) of this Ordinance or the specific prohibitions in Sections 2.3(B) of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City of Nappanee was regularly in compliance with its NPDES Permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

12.3 Bypass

- A. For the purposes of this section,
 - (1) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
 - (2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.
- A. (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Utilities Manager, at least ten (10) days before

the date of the bypass, if possible.

- (2) A user shall submit oral notice to the Utilities Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass. The Utilities Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

- D. (1) Bypass is prohibited, and the Nappanee Board of Public Works & Safety may take an enforcement action against a user for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The user submitted notices as required under paragraph (C) of this section.
- (2) The Utilities Manager may approve an anticipated bypass, after considering its adverse effects, if the Utilities Manager determines that it will meet the three conditions listed in paragraph (D) (1) of this section.

SECTION 13 – MISCELLANEOUS PROVISIONS

13.1 Severability

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

13.2 Supersedes

This Ordinance supersedes any ordinances and laws, or sections and provisions thereof, that conflict with this Ordinance. Any provision of an ordinance in contradiction to this Ordinance is hereby repealed.

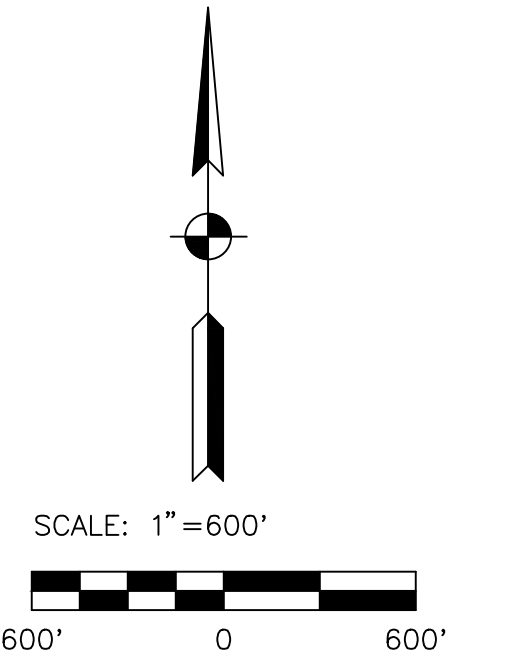
13.3 Operation of POTW

The City shall make and enforce such bylaws and regulations as may be deemed necessary for safe, economic and efficient management of the POTW.

SECTION 14 - EFFECTIVE DATE

This Ordinance shall be in full force and effect immediately following its passage by the Common Council of the City of Nappanee, Indiana and the publication of notice of such passage. This Ordinance supersedes, repeals, and replaces Section 51.01 through 51.80 *Title V: Public Works, Chapter 51: Sewers* in its entirety.

ADOPTED, PASSED AND ORDAINED BY THE COMMON COUNCIL OF THE CITY OF NAPPANEE, INDIANA, THIS ____ DAY OF _____, 2016.



LEGEND:
— COMBINED SEWER SYSTEM BOUNDARY



REVISIONS			
No.	DATE	DESCRIPTION	REVISED BY

COMMONWEALTH ENGINEERS, INC.
 7256 Company Dr. Indianapolis, IN 46237 (317) 888-1177
 101 Plaza East Blvd. Ste. 200 Evansville, IN 47715 (812) 474-1177
 9604 Coldwater Road, Suite 203 Fort Wayne, IN 46825 (260) 484-3223

DRAWN BY:	CM
DESIGNED BY:	MDD
CHECKED BY:	MDD
DATE:	03/15
JOB NO:	
SCALE:	AS NOTED

CITY OF NAPPANEE, INDIANA
 APPENDIX A
 COMBINED SEWER SYSTEM BOUNDARY MAP

DRAWING NO.
1
 1 OF 1