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(Repealed)

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(Repealed)

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## CHAPTER 9

### UTILITIES

#### ARTICLE 1. GENERAL PROVISIONS.<sup>1</sup>

##### **Sec. 9-1 Authority To Establish Water Service.<sup>2</sup>**

The City may regulate the furnishing of water to the public. It may also establish, maintain, and operate a waterworks system.

##### **Sec. 9-2 Authority To Establish a Sewage System.<sup>3</sup>**

The City may erect, maintain, and operate a sewage works plant for the collection, treatment, and disposal of sewage.

##### **Sec. 9-3 Adoption of State Code.**

Indiana Code 36-9-25-1, *et seq.*, Sanitation Department in Certain Cities, as published and hereafter amended, is adopted and incorporated by referenced into the *Terre Haute City Code*, shall supplement the terms and provisions of this Chapter 9, and shall throughout the Sanitary District which includes all territory within the corporate boundaries of the City of Terre Haute and any territory, addition platted subdivision, or unplatted land lying outside the corporate boundaries of the City of Terre Haute that has been taken into the Sanitary District or has been connected with the Terre Haute public sanitation system and discharges sewage or drainage into the Terre Haute sanitation system. (Gen. Ord. No. 31, 2004, 12-09-04)

##### **Sec. 9-4 Procedures To Resolve Disputes.**

In the event the charges to a user of the Wastewater Utility are in dispute, the user shall contact the Wastewater Utility Specialist and seek review of the disputed charges. In the event the decision rendered by the Wastewater Utility Specialist does not resolve the dispute, the user may provide a written request to the Sanitary District Commission to review the decision of the Wastewater Utility Specialist. The Sanitary District Commission may, at its discretion, review the decision of the Wastewater Utility Specialist and affirm, modify or rescind the decision of the Wastewater Utility Specialist, which decision shall be a final decision of the Wastewater Utility and shall be implemented. In the event the Sanitary District Commission should refuse to review the decision of the Wastewater Utility Specialist, the decision of the Specialist shall become the final decision and shall be implemented. (Gen. Ord. No. 31, 2004, 12-09-04)

##### **Sec. 9-6 and Sec. 9-6 Reserved for Future Use.**

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<sup>1</sup> I.C. § 36-9-2-15, authorizes a city to furnish or regulate the furnishing of utility services to the public.

<sup>2</sup> I.C. § 36-9-2-14, authorizes the furnishing of water by a city to the public.

<sup>3</sup> I.C. § 36-9-6-11, addresses the right to operate a sewage plant.

## ARTICLE 2. SEWAGE USAGE AND INDUSTRIAL PRETREATMENT.<sup>4</sup>

### Sec. 9-7 Purpose.

This Wastewater Discharge Ordinance sets uniform requirements for discharges into the wastewater collection and treatment system and enables the Agency to comply with the administrative provisions set forth in the current National Pollutant Discharge Elimination System (NPDES) Permit, provision as set forth under Public Law 92-500, Federal Water Pollution Control Act Amendments of 1972 (FWPCA), all national standards of performance, toxic and pretreatment effluent standards, and any and all other discharge criteria required or authorized by federal, state, or local laws and regulations, and to serve the maximum public benefit by regulation of the quality and quantity of wastewater discharged into those systems. This Article also provides for the issuance of permits to certain users. (Gen. Ord. No. 1, 1999, § 1, 2-11-99)

### Sec. 9-8 Definitions.

Unless otherwise defined herein, terms shall be as adopted in the latest edition of *STANDARD METHODS FOR THE EXAMINATION OF WATER AND WASTEWATER*, published by the American Public Health Association, the American Water Works Association, and the Water Federation. Waste constituents and characteristics shall be measured by Standard Methods unless other methods are expressly required by federal and state regulations.

- a. **Administrator.** The Superintendent of POTW.<sup>5</sup>
- b. **Agency.** The Board of Public Works and Safety.
- c. **Applicable Pretreatment Standard.** Any pretreatment limit or prohibitive standard (federal, state, and/or local) contained in the ordinance and considered to be the most restrictive with which non-domestic users will be required to comply.
- d. **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 the month.

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<sup>4</sup> Editor’s Note: Ord. No. 7, 1961 was passed on September 26, 1961 and set forth public and private sewer, drain and discharge regulations. Ord. No. 6, 1961 was amended by Gen. Ord. No. 12, 1970 as amended on June 3, 1970. On March 10, 1977 the Council passed Ord. No. 3, 1976 making reference to Ord. No. 6, 1961 and not Ord No. 12, 1970. Gen. Ord. No. 3, 1982 passed May 13, 1982 amended Gen. Ord. No. 3, 1976. Gen. Ord. No. 1, 1983 passed April 15, 1983 amended Gen. Ord. No. 3, 1976. Gen. Ord. No. 1, 1986 passed February 20, 1986 amended Gen. Ord. No. 3, 1976. Gen. Ord. No. 14, 1990, passed July 10, 1991 amended codified § 913.05 of the *1/94 Code*. Gen. Ord. No. 1, 1999, passed on February 11, 1999 amended Gen. Ord. No. 9, 1995, passed on November 9, 1995. Gen. Ord. No. 13, 2001, passed on June 14, 2001 amended codified Chapter 9 of the *City Code*.

<sup>5</sup> Editor’s Note: “POTW” means “Publicly Owned Treatment Works” and is defined in the abbreviations reference in this Section.

e. **Beneficial Uses.** Uses of the waters of the State and all waters adjacent to or bordering the State that may be protected against quality degradation, including, but not limited to, domestic, municipal, agricultural and industrial supply, power generation, recreation, aesthetic enjoyment, navigation and preservation and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, both tangible and intangible as specified by Federal, State or local law.

f. **Community Sewer.** Sewer owned and operated by the Agency, a city or other public agency tributary to a treatment facility operated by the Agency.

g. **Compatible Pollutant.** Biochemical Oxygen Demand, Suspended Solids, pH and Fecal Coliform Bacteria, plus additional pollutants identified in the Agency's National Pollutant Discharge Elimination System (NPDES) permit if the POTW is designed to treat such pollutants to a substantial degree.

h. **Composite Sample.** A composite sample should contain a minimum of eight (8) 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.

i. **Contamination.** An impairment of the quality of the waters of the State by waste to a degree creating a public health hazard through spread of disease, poisoning, or any other means. Contamination shall also mean any equivalent effect whether or not waters of the State are affected.

j. **Critical User.** A user who is required to obtain a permit, as defined in Sec. 9-29.

k. **Daily Discharge.** Discharge of a pollutant "measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling".

l. **Employee.** A duly authorized agent of the Administrator.

m. **Federal Act.** The Federal Water Pollution Control Act, PL 92-500, and amendments thereto; as well as any regulations, limitations, and standards promulgated by the Environmental Protection Agency pursuant to the Act.

n. **Federal Categorical Pretreatment Standards.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307 (b) and (c) of the Federal Act which applies to a specific category of industrial users.

o. **Grab Sample.** A sample which is taken from a wastestream on a one time basis with no regard to the flow in the wastestream and without consideration of time.

p. **Holding Tank Waste.** Any waste from holding tanks, such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum pump tank trucks.

q. **Incompatible Pollutant.** Any pollutant which is not a compatible pollutant as defined in this Article.

r. **Industrial User.** A non-residential user.

s. **Interference.** The inhibition or disruption of the POTW treatment processes or operations which contributes to a violation of any requirement of the Agency's NPDES permit. The term includes prevention of a sewage sludge use or disposal by the POTW in accordance with 405 of the Federal Act, (33 *U.S.C.* 1345) or any criteria (including those contained in any State sludge management plans prepared pursuant to Title IV of SWA) applicable to the method of disposal or use employed by the POTW.

t. **Major Contributor.** A contributor that:

(1) All industrial uses subject to categorical/pretreatment standards under Federal Regulation 40 *CFR* 401 and the General Pretreatment Regulations (40 *CFR* 403);

(2) Has a flow of more than twenty-five thousand (25,000) gallons per average workday and excluding sanitary, noncontact cooling and boiler blowdown wastewater;

(3) Has in its waste a toxic pollutant in toxic amounts as defined in Section 307 of the Federal Act;

(4) Has in its waste toxic pollutants as defined pursuant to Section 307 of the Act or State Statute and Rules; or

(5) Is found by City, State, or the U.S. Environmental Protection Agency (EPA) to significantly impact, either by itself or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality of air emissions generated by the system.

u. **Mass Emission Rate.** The weight of material discharged to the sewer system during a given time interval. Unless otherwise specified, the mass emission rate shall mean pounds per day of such material.

v. **Maximum Daily Discharge Limitation.** The highest allowable daily discharge.

w. **May** indicates a discretionary condition.

x. **Nuisance.** Anything which is injurious to health, indecent, offensive to the senses, obstructive to the free use of property, interfering with the comfort or enjoyment of life or property, or which at the same time affects an entire community or neighborhood or any considerable number of persons, even though the extent of the annoyance or damage inflicted upon individuals may be unequal.

y. **Person.** An individual or firm, association, partnership, corporation, or public agency, including the City of Terre Haute, State of Indiana and United States of America.

z. **Pollution.** An alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial use of facilities which serve such beneficial uses. Pollution may include contamination.

aa. **Premises.** Any parcel of real estate deemed to be a single user for purposes of receiving, using, and paying for service.

bb. **Unpolluted Water.** Water containing no added constituents which the Agency would deem pollutants.

cc. **Upset.** An exceptional incident in which there is unintentional temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

dd. **User Classification.** A classification of users based upon the latest edition of Standard Industrial Classification (S.I.C.) manual prepared by Executive Office of Management and Budget.

ee. **User Sewer.** A sewer conveying wastewater from the premises of a user to a community sewer.

ff. **Waste.** Sewage or any substance wasted or discharged to the public collection and/or treatment system, either directly and/or indirectly.

gg. **Wastewater.** Any waste and water, treated or untreated, wasted or discharged to the community owned collection and/or treatment system.

hh. **Waters of the State.** Any water, underground or surface, within the geographical or legal boundaries of a State.

**ABBREVIATIONS:**

<i>EPA</i>	Environmental Protection Agency
<i>IU</i>	Industrial User
<i>mg/l</i>	Milligrams per liter
<i>NPDES</i>	National Pollutant Discharge Elimination System Permit
<i>POTW</i>	Publicly Owned Treatment Works
<i>SIC</i>	Standard Industrial Classification
<i>BOD</i>	Biochemical Oxygen Demand
<i>TTO</i>	The sum of the masses or concentration of specific toxic organic compounds found in Industrial User's process discharge at a concentration greater than 0.0 mg/l. Each categorical standard lists the specific organic

compounds that are to be included in the summation to define TTO for the category. (Gen. Ord. No. 1, 1999, § 925.01, 2-11-99)

**Sec. 9-9 Authority of the Board of Public Works and Safety.**

The Agency shall have the authority to apply and implement action available under Federal, State, or local law to enforce the requirements of Section 307(b) and (c) and 402(b)(8) of the Federal Act and any implementing regulations. Such authority shall permit Agency to take action including, but not limited to, the following:

a. Deny or condition new or increased contributions of pollutants by changes in the nature of pollutants by Industrial Users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause Agency to violate its permit;

b. Require compliance with applicable pretreatment standards and requirements by Industrial Users;

c. Control through permit, order, or similar means, the contributions to Agency by each Industrial User and in the case of a significant user, through permits or equivalent industrial control mechanisms issued to such user, to ensure compliance with applicable pretreatment standards and requirements, by including in each permit or other control mechanism at the minimum the following conditions:

(1) A statement of duration not to exceed five (5) years;

(2) A statement of restrictions or transferability including a minimum prior notification of Agency and the furnishing of a copy of the existing control mechanisms on the new owner or operator;

(3) Effluent limits based on applicable pretreatment standards in 40 *CFR* 403, categorical pretreatment standards, local limits and state and local law;

(4) Self-monitoring, sampling, reporting, notification and record keeping requirements including, but not limited to, identification of pollutants to be monitored, sampling location, sampling frequency, and sampling type, based on the applicable general pretreatment standards in 40 *CFR* 403, categorical standards, local limits and state and local law;

(5) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and applicable compliance schedules not to exceed that permitted by the Federal Act and any regulation implementing the act;

d. Require the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable pretreatment standards and requirements, and submission of all notices and self monitoring reports from Industrial Users as are necessary

to assess and assure compliance by Industrial Users with pretreatment standards and requirements;

e. Carry out all inspection, surveillance and monitoring procedures necessary to determine independent of the information supplied by Industrial Users, compliance or noncompliance with applicable pretreatment standards and requirements by Industrial Users. Consistent with the provision of Section 308 of the Federal Act, representatives of Agency are authorized to enter any premises of any Industrial User in which a discharged source or treatment system is located or in which records are required to be kept under 40 *CFR* 403.12 to assure compliance with pretreatment standards.

f. The Agency shall have authority to take action necessary for enforcement of the provisions of this Wastewater Discharge Ordinance including, but not limited to, the following:

(1) Obtain any and all available civil or criminal remedies, including but not limited to injunctive relief, for noncompliance by any industrial user with any pretreatment standard or requirement, and an action to assess civil or criminal penalties in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) a day for each violation by an Industrial User of pretreatment standards and requirements.

(2) Pretreatment requirements which shall be enforced through the authority set forth in paragraph f. (1) above shall include, but not be limited to, the duty to allow or carry out inspection, entry, or monitoring activities; any rules, regulations or orders issued by Agency; and any requirements set forth in industrial control mechanisms issued by Agency; or any reporting requirements imposed by Agency in 40 *CFR* 403. The Agency shall have authority and procedures, after informal notice to the discharger, immediately and effectively to halt or prevent any discharge of pollutants to the Agency which reasonably appears to present an imminent endangerment to the health and welfare of persons. The Agency shall have authority and procedures, which shall include notice to the affected Industrial Users and an opportunity to respond, to halt or prevent any discharge to the Agency which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the Agency.

g. To comply with the confidentiality requirements set forth in 40 *CFR* 403.14. (Gen. Ord. No. 9, 1995, § 925.02, 11-9-95; Gen. Ord. No. 1, 1999, § 925.02, 2-11-99)

## **Sec. 9-10 Prohibitions on Discharges.<sup>6</sup>**

No person shall discharge any liquids, solids, or gases to a community sewer, wastes which may cause, or are capable of causing, either alone or by interaction with other substances:

a. Fire or explosion;

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<sup>6</sup> Editor's Note: During the recodification completed in December of 1999, the word "injury" was deleted and the word "damage" was inserted in Subsections c. and d. at the request of the City.

- b. Obstruction of flow in sewer system;
- c. Damage to the collection system;
- d. Damage to the treatment or disposal system;
- e. Air pollution through the release of toxic or malodorous gases or any substance which has the potential of producing toxic or malodorous gases;
- f. A creation of a strong odor or nuisance which would in any way interfere with the effective operation or maintenance of the collection, treatment, or disposal system;
- g. Any interference with the wastewater treatment process;
- h. The Agency's effluent or any other product or by-product of the treatment process such as, but not limited to, residues, scums and sludges, thus rendering such materials unsuitable for reclamation and reuse or that interfere with any reclamation or disposal process;
- i. A detrimental environmental impactor, nuisance in the water of the State, or a condition unacceptable to any public agency having regulatory jurisdiction;
- j. Discoloration or any other condition in the quality of the Agency's treatment works effluent in such a manner that receiving water quality requirement established by law cannot be met;
- k. Quantities or rates of flow which overload the Agency's collection or treatment system or which cause undue expense by the Agency in the cost of collection or treatment or that utilize a disproportionate share of the Agency's facilities;
- l. Abnormal corrosive structural damage to the treatment works or collection system or any sewer or appurtenances owned or operated by the Agency;
- m. Any wastewater containing toxic pollutants in sufficient quantity, either alone or by interaction to injure or interfere with any wastewater treatment process, or constitute hazard to humans or animals;
- n. Any slugload, including any oxygen demanding pollutants (BOD, etc.) released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW. (Gen. Ord. No. 9, 1995, § 925.03, 11-9-95)
- o. Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW. (Gen. Ord. No. 1, 1999, § 925.03, 2-11-99)

p. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems. (Gen. Ord. No. 1, 1999, § 925.03, 2-11-99)

q. Any trucked or hauled pollutants, except at discharge points designated by the POTW. (Gen. Ord. No. 1, 1999, § 925.03, 2-11-99)

#### **Sec. 9-11 Prohibitions on Storm Drainage and Groundwater.**

Storm waters, groundwater, rainwater, street drainage, or yard drainage will not be discharged through direct or indirect connections to a community sewer unless such discharge is approved by the Agency. The Agency may approve the discharge of such water only when no reasonable alternative method of disposal is available. (Gen. Ord. No. 9, 1995, § 925.04, 11-9-95; Gen. Ord. No. 1, 1999, § 925.04, 2-11-99)

#### **Sec. 9-12 Prohibitions on Unpolluted Water.**

Unpolluted water, including but not restricted to cooling water, process water or blowdown from cooling towers or boilers, or evaporative cooling units, shall not be discharged through direct or indirect connection into a community sewer unless approved by the Agency. (Gen. Ord. No. 9, 1995, § 925.05, 11-9-95; Gen. Ord. No. 1, 1999, § 925.05, 2-11-99)

#### **Sec. 9-13 Limitations on Radioactive Wastes.**

No person shall discharge or cause to be discharged any radioactive waste into a community sewer. (Gen. Ord. No. 1, 1999, § 925.06, 2-11-99)

#### **Sec. 9-14 Limitations on the Use of Garbage Grinders.**

Waste from garbage grinders shall not be discharged into a community except:

a. Wastes generated in preparation of food normally consumed on the premises and such wastes do not constitute a disproportionate use of the Agency facilities or cause excessive agency collection, treatment or disposal cost, or;

b. Such grinders must shred the waste to a degree that all particles will be carried freely under normal flow conditions prevailing in the community sewer. Garbage grinders shall not be used for grinding plastic, paper products, inert materials, or garden refuse. (Gen. Ord. No. 9, 1995, § 925.07, 11-9-95; Gen. Ord. No. 1, 1999, § 925.07, 2-11-99)

#### **Sec. 9-15 Grease Traps.**

Any establishment, other than a residence, involved in food preparation shall have a grease trap. The contents of the grease trap shall not be discharged into a community sewer but shall be disposed of in an acceptable, and timely manner. (Gen. Ord. No. 9, 1995, § 925.08, 11-9-95; Gen. Ord. No. 1, 1999, § 925.08, 2-11-99)

**Sec. 9-16      Limitations on Point of Discharge.**

No person shall discharge any substance directly into a manhole or other opening in a community sewer other than through an approved user sewer, unless upon written application by the user and payment of the application user charges and fees, and the Agency issues a permit for such direct discharges. (Gen. Ord. No. 9, 1995, § 925.09, 11-9-95; Gen. Ord. No. 1, 1999, § 925.09, 2-11-99)

**Sec. 9-17      Holding Tank Waste.**

A user proposing to diverge holding tank waste into a community sewer or treatment facility must secure a permit from the Agency. Unless allowed by the Agency under the terms and conditions of the permit, a separate permit is granted for discharge of such waste into a community sewer, the user shall pay the applicable user charges and fees and shall meet such other conditions as required by the Agency. (Gen. Ord. No. 9, 1995, § 925.10, 11-9-95; Gen. Ord. No. 1, 1999, § 925.10, 2-11-99)

**Sec. 9-18      Limitations on Wastewater Strength Discharged to the Community Sewer.**

All limits of concentration regarding toxic or harmful material such as, but not limited to heavy metals and other like substances, shall be established by the Agency and based on the effects upon the collection and treatment systems, maximum allowable treatment plant effluent concentrations and any existing local, state, or federal limitations or regulations. In the case where more than one permittee is discharging the same type of toxic, harmful waste and such collective discharge produces a level of concentration beyond acceptable limits, the Agency will allocate individual limits of concentration to each contributor. (Gen. Ord. No. 9, 1995, § 925.11, 11-9-95; Gen. Ord. No. 1, 1999, § 925.11, 2-11-99)

**Sec. 9-19      Specific Discharge Regulations.**

No person shall discharge any wastewater:

- a. Having a temperature which will inhibit biological activity in the POTW treatment plant resulting in interference; but in no case, wastewater with a temperature at the introduction into the POTW which exceeds forty degrees (40°) centigrade; one hundred and four degrees (104°) Fahrenheit.
- b. Containing more than three hundred (300) mg/l of oil or grease of animal or vegetable origin.
- c. Containing more than one hundred (100) mg/l of oil or grease of mineral or petroleum origin.

d. Having a pH less than 5.0 or higher than 10 or having any other corrosive property capable of causing damage or hazard to structure, equipment, or personnel of the system (unless the system is specifically designed to accommodate such wastewater).

e. Containing in excess of 0.02 mg/l total identifiable chlorinated hydrocarbons which cannot be removed by the Agency's wastewater treatment process.

f. Containing phenolic compounds which cannot be removed by the Agency's wastewater treatment process or phenolic compounds that shall cause any problems within the Agency's collection or treatment system unless otherwise prohibited by Federal or State regulations.

g. Containing any toxic cations, compounds or substances exceeding the concentrations stated below as measured at the point of discharge into the community sewer.

<u>CONSTITUENT</u>	<u>Maximum Daily Discharge Concentration (mg/l)</u>
Arsenic.....	0.70
Cadmium.....	0.80
Chromium (total).....	10.00
Copper.....	9.00
Lead.....	1.20
Zinc.....	9.00
Mercury.....	0.20
Nickel.....	7.00
Cyanide (total).....	0.50
Molybdenum.....	1.00 (Amended by Gen. Ord. No. 13, 2001, 6-14-01)
BOD.....	1,000 (Gen. Ord. No. 13, 2001, 6-14-01)
TSS.....	1,200 (Gen. Ord. No. 13, 2001, 6-14-01)
Ammonia (NH3).....	50 (Gen. Ord. No. 13, 2001, 6-14-01)

h. Discharges in excess of the BOD, TSS and NH3 limits stated in subsection (g) of this Section may be made only under special agreement with the Administrator. This special agreement shall have mass based limits with special attention to flow rates. In no case shall a special agreement as set forth in this subsection (h) waive compliance with all other pretreatment standards or requirements or cause an exceedance of plant capacities. (Gen. Ord. No. 9, 2005, 8-11-05)

(i) Alternative limits may be granted to Industrial Users by issuance of an Industrial User Wastewater Discharge Permit provided the City has determined that no adverse effect on the City's facilities will occur from the alternative limits and the Industrial User can justify to the City's satisfaction the above listed limits cannot be reasonably or cost effectively achieved. In addition, the total allocation of the pollutants shall not exceed the calculated Maximum Allowable Industrial Load. (Gen. Ord. No. 6, 2006, 4-11-06)

**Sec. 9-20 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 the EPA. (Gen. Ord. No. 1, 1999, § 925.13, 2-11-99)

#### **Sec. 9-21 Effluent Limitations.**

State and Federal Categorical Pretreatment Standards, requirements, or limitations shall apply in instances where they are more stringent than those in this Article. Under Section 307 (b) of the Federal Act, Federal Categorical Pretreatment Standards are designed to achieve two (2) purposes:

- a. To protect the operation of Agency owned treatment works, and
- b. To prevent the discharge of incompatible pollutants to agency owned treatment works.

Industries are required to adopt the best practical control technology currently available, as defined under Section 304(b) of the Federal Act. Where the Agency treatment works was designed to treat the four (4) pollutants listed in the definition for compatible pollutants in Sec. 9-8, (BOD, Suspended Solids, pH, and Fecal Coliform Bacteria), it is not appropriate to require the Industrial User to achieve the best practicable control technology available, since this would lead to uneconomical duplication of treatment facilities. While the term “substantial removal” is not subject to precise definition, it generally contemplates removals in the order of eighty percent (80%) or greater. Minor incidental removals in the order ten percent (10%) to thirty percent (30%) are not considered “Substantial”. For some industrial categories it may be necessary to define pretreatment guidelines for problems that may arise as a result of the discharge into Agency owned treatment works. However, any adjustment required for particular industrial categories should be considered in connection with the Agency’s requirements rather than the Federal Categorical Pretreatment Standards. Limitations on wastewater strength in Sections 9-18 and 9-19 of this Article may be supplemental with more stringent limitations pursuant to Sec. 9-32.

1. If the Agency determines that the limitations in Sections 9-18 and 9-19 may not be sufficient to protect the operation of the Agency’s treatment works; or

2. If the Agency determines that the limitations in Sections 9-18 and 9-19 may not be sufficient to enable the Agency’s treatment works to comply with water quality standards or effluent limitations specified in the Agency’s National Pollutant Discharge Elimination System (NPDES) Permit. (Gen. Ord. No. 1, 1999, § 925.14, 2-11-99)

#### **Sec. 9-22 Modification of Standards.**

Where the Agency's POTW achieves consistent removal of the pollutants limited by Federal Categorical Pretreatment standards, the City may apply to the Indiana Stream Pollution Control Board for modification of specific limits to the standards. "Consistent Removal" is defined as the reduction in the amount of wastewater treatment system to a less toxic or harmless state in the effluent. (Gen. Ord. No. 9, 1995, § 925.14, 11-9-95; Gen. Ord. No. 1, 1999, § 925.15, 2-11-99)

**Sec. 9-23 Dilution.**

These limitations are applied on the total discharge an industry has to the POTW. However, the regulated wastestream cannot be diluted to meet the limitations. (Gen. Ord. No. 9, 1995, § 925.15, 11-9-95; Gen. Ord. No. 1, 1999, § 925.16, 2-11-99)

**Sec. 9-24 Required Connections.**

All persons owning houses, buildings or properties used for human occupancy, employment, recreation, or other purposes, including any structure or area having a discharge of wastewater and within the municipal limits of the City of Terre Haute, Indiana shall be connected to the community sewer, except:

- a. Where such community sewer is more than three hundred feet (300') away from such property and the Agency has deemed that no connection can be made to a community sewer; or
- b. The Agency has agreed in written form to allow such persons to dispose of wastewater in a manner satisfactory to the Agency, and which satisfies all regulatory agencies' requirements.
- c. Where discharge is regulated by state or federal permits.

It shall be unlawful to construct, maintain, or use any septic tank, cesspool, or any other facility intended or used for the disposal of sewage or wastewater within the limits of the City of Terre Haute, Indiana, except:

- (1) Where such facility serves a dwelling, building, or area outside the limit of three hundred feet (300') of a community sewer.
- (2) Where a permit is granted under Sec. 9-27.
- (3) Where regulated by state or federal permits.

It shall be unlawful to construct, maintain, or use privy or privy vaults within the limits of the City of Terre Haute, Indiana. (Gen. Ord. No. 9, 1995, § 925.16, 11-9-95; Gen. Ord. No. 1, 1999, § 925.17, 2-11-99)

**Sec. 9-25 Private Treatment or Disposal of Wastewater.**

In the case where connection to a community sewer is not deemed feasible by the Agency, a building, dwelling, or area sewer may connect to a private sewer served by a private treatment facility if:

- a. Such a sewer and treatment facility meet all of the Agency's requirements; and
- b. Such a sewer or treatment facility meets the requirements of all other federal, state, and local agencies; and
- c. A permit for such a private sewer and treatment system has been issued by the Agency; and
- d. Such permit to use and operate such private facilities is valid only until such a time as the community sewer is made available for connection or the Agency deems the connection to the community sewer shall be made; and
- e. Discharge regulated by state or federal permits are not subject to the requirements of this paragraph. (Gen. Ord. No. 9, 1995, § 925.17, 11-9-95; Gen. Ord. No. 1, 1999, § 925.18, 2-11-99)

#### **Sec. 9-26 Prohibitions on Construction of Sewer and Appurtenances.**

No person shall construct or connect sewer system or appurtenances, or preconstructed sewer, collection system, pipe tile, manhole, catch basin, inlet, or any other device or appurtenances that will be connected to the existing community sewer system without a permit from the Agency.

Such permits shall be issued only if all requirements and specifications of the Agency are met. Such requirements shall contain, but not be limited to, the proper inspection of all drawings and constructed systems, and shall include the proper infiltration/inflow analysis of all collection systems. Such requirements and specifications shall be furnished in written form by the Agency. These requirements and specifications shall in no way replace any existing or proposed Federal, State or local regulatory agency's regulations, requirements, guidelines, or specifications, except in the case where such requirements or specifications of the Agency are more stringent. (Gen. Ord. No. 9, 1995, § 925.19, 11-9-95)

#### **Sec. 9-27 Private Systems.**

In such cases where a person has in existence a private system of wastewater collection and treatment not regulated by a state or federal permit, the Agency may issue a permit allowing the continuance of use of such system for a time specified by the Agency. Such permit would, for instance, apply to an industry which provides an adequate and well maintained wastewater collection and treatment system. However, the issuance of such permits shall not be relegated to Industrial Users alone. (Gen. Ord. No. 9, 1995, § 925.19, 11-9-95; Gen. Ord. No. 1, 1999, § 925.20, 2-11-99)

## **Sec. 9-28 Discharge Reports.**

The Agency may require that any person discharging or proposing to discharge wastewater into community sewer file a discharge report up to twelve (12) times annually. The discharge report may include, but not be limited to, nature of process, volume, rates of flow, mass emission rate, production quantities, hours of operation, number and classification of employees, or other information which is related to the generation of waste, including wastewater constituents and characteristics in the wastewater discharge. Such reports may also include the chemical constituents and quantity of liquid or gaseous materials stored on site, even though they may not be normally discharged. In addition to discharge reports, the Agency may require information in the form of Wastewater Discharge Permit application and self-monitoring reports.

Any person signing the application statement submitted pursuant to this Section shall make the following certification:

*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. (Gen. Ord. No. 1, 1999, § 925.21, 2-11-99)*

## **Sec. 9-29 Mandatory Permits.**

All Critical Users proposing to connect or to discharge into a community sewer must have a Wastewater Permit before connection to or discharging into a community sewer. All existing Critical Users connected to or discharging into a community sewer must obtain a Wastewater Discharge Permit within ninety (90) days after the effective date of the Article. For purposes of this Article, a Critical User is defined as any user whose user class is identified in the Standard Industrial Classification (SIC) Manual in any of the Division A, B, D, E, and F, and who:

- a. Has a discharge flow of twenty-five thousand (25,000) gallons or more per average day; or
- b. Has a flow greater than five percent (5%) of the flow in the Agency's Wastewater Treatment System; or
- c. Has in his wastes toxic pollutants in toxic amounts as defined in standards issued under Section 307 (a) of the Federal Act;

d. Is found by the Agency to have significant impact, either singly or in combination with other contributing industries, on the treatment or collection system; or

e. Users subject to national categorical pretreatment standards. (Gen. Ord. No. 1, 1999, § 925.22, 2-11-99)

**Sec. 9-30 Optional Permits.**

The Agency may issue a Wastewater Discharge Permit to any user in accordance with the terms of the following categories:

a. A user who requires the user charges and fees to be based upon an estimation of wastewater flow.

b. A discharger who discharges wastes exceeding the following concentration limits:

<u>Pollutant</u>	<u>Concentration Limit</u>
BOD.....	250mg/l
Total Suspended Solids.....	300mg/l
Ammonia .....	25 mg/l (Gen. Ord. No. 13, 2001, 6-14-01)

(Gen. Ord. No. 9, 1995, § 925.22, 11-9-95; Gen. Ord. No. 1, 1999, § 925.23, 2-11-99)

**Sec. 9-31 Permit Application.**

Users seeking a Wastewater Discharge Permit shall complete and file with the Agency an application in the form prescribed by the Agency and accompanied by the applicable fees. A person submitting information to the administrator must make a claim of confidentiality respecting such information at the time of submission. The applicant may be required to submit, in units and terms appropriate for evaluation, the following information:

- a. Name, address, and SIC number of applicant;
- b. Volume of wastewater to be discharged;
- c. Wastewater constituents and characteristics including, but not limited to, those mentioned in Sec. 9-19 and a statement regarding whether or not compliance is being achieved on a constituent basis and, if not, what additional operation, maintenance, or pretreatment is required to bring the discharger into compliance;
- d. Time and duration of discharge;
- e. Average and 30-minute peak wastewater flow rates including daily, monthly, and seasonal variations, if any;
- f. Site plans, floor plans, mechanical and plumbing plans, sampling chambers, and details to show all sewers and appurtenances by size, location, and elevation;

- g. Description of activities, facilities, and plant process on the premises, including all materials, processes, and types of materials which are or could be discharged;
- h. Each product by type, amount, and rate of production;
- i. Number and type of employees and hours of work;
- j. Any other information as may be deemed by the Administrator to be necessary to evaluate the permit application.

The Administrator will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Agency may issue a Wastewater Discharge Permit subject to terms and conditions provided herein. (Gen. Ord. No. 9, 1995, § 925.23, 11-9-95; Gen. Ord. No. 1, 1999, § 925.24, 2-11-99)

### **Sec. 9-32 Permit Conditions.**

Wastewater Discharge Permits shall be expressly subject to all provisions of this Article, and all other regulations, user charges, and fees established by the Agency. The conditions of Wastewater Discharge Permits shall be uniformly enforced by the Agency in accordance with this Article, and applicable local, state, and federal regulations. Permits shall contain the following where appropriate:

- a. The unit charge or schedule of user charges and fees for the wastewater to be discharged to a community sewer.
- b. Limits on the average and minimum wastewater constituents and characteristics;
- c. The limits on rate and time of discharge, or requirements for flow regulation and equalization;
- d. Requirements for installation and maintenance of inspection and sampling facilities;
- e. Compliance schedule;
- f. Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, types and standards for test and reporting schedules;
- g. Requirements for submission of technical reports as required in Sec. 9-62, or discharge reports;
- h. Requirements for maintaining records relating to wastewater discharge specified by the Agency and affording the Administrator access thereto;

i. Mean and maximum mass emission rate, or other appropriate limits, when incompatible pollutants (as defined by Sec. 9-8) are proposed or present in the user's wastewater discharge;

j. Other conditions as deemed appropriate by the Agency to ensure compliance with this Article. (Gen. Ord. No. 1, 1999, § 925.25, 2-11-99)

### **Sec. 9-33 Duration of Permits.**

Permits shall be issued for a specified time period but not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. In order to receive authorization to discharge beyond the date of expiration, the permittee must submit a renewal permit application to the Terre Haute Pretreatment Group no later than one hundred and eighty (180) days prior to the date this permit expires. Failure to do so will result in expiration of the authorization to discharge. The terms and conditions of the permit may be subject to modification and change by the Agency during the life of the permit as limitations or requirements as identified in Sec. 9-18 are modified and changed. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any change or new conditions in the permit shall include a reasonable time schedule for compliance. (Gen. Ord. No. 9, 1995, § 925.25, 11-9-95; Gen. Ord. No. 1, 1999, § 925.26, 2-11-99; Gen. Ord. No. 9, 2005, 8-11-05)

### **Sec. 9-34 Transfer of Permit.**

A permit may be transferred to another person by a permittee, without modification or revocation and reissuance being required if:

- a. The permittee notifies the Administrator of the proposed transfer;
- b. A written agreement containing a specific date for transfer of permit responsibility and coverage between the current permittee and the transferee (including acknowledgement that the existing permittee be liable for violations up to that date, and that the transferee is liable for violations from that date on) is submitted to Administrator;
- c. The transferee certifies in writing to the Administrator his intent to operate the facility without making such material and substantial alterations or additions to the facility as would significantly change the nature or quantities of pollutants discharged and thus constitute cause for permit modification. However, the Administrator *may* allow, at his discretion, a temporary transfer of the permit without permit modification for good cause (e.g., to enable the transferee to purge and empty the facility's treatment system prior to making alterations) despite the transferee's intent to make such material and substantial alterations or additions to the facility; and
- d. The Administrator, within thirty (30) days, does not notify the current permittee and the transferee of his intent to modify, revoke and reissue, or terminate the permit and to

require that new application be filed rather than agreeing to the transfer of the permit. (Gen. Ord. No. 9, 1995, § 925.26, 11-9-95; Gen. Ord. No. 1, 1999, § 925.27, 2-11-99)

### **Sec. 9-35 Revocation of Permit.**

Any user who violates the following conditions of the permit, or this Article, or applicable state, federal, or local regulations, is subject to having his permit revoked:

- a. Failure of a user to factually report the wastewater constituents and characteristics of his discharge;
- b. Failure of the user to report significant changes in operations or wastewater constituents and characteristics;
- c. Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring by the Administrator or employees of the POTW (properly identified), having regulatory jurisdiction.
- d. Continued or deliberate violation of conditions of the permit. (Gen. Ord. No. 9, 1995, § 925.27, 11-9-95; Gen. Ord. No. 1, 1999, § 925.28, 2-11-99)

### **Sec. 9-36 Monitoring Facilities.**

The Agency may require the user to construct, at his own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the user sewer or internal drainage systems, and may also require sampling or metering equipment to be provided, installed, and operated at the user's expense. The monitoring facility should normally be situated on the user's premises, but the Agency may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole to allow accurate sampling and compositing of samples for analysis. The manhole, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the owner.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Agency requirements and all applicable local agency construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the Agency unless a time extension is granted by the Agency. (Gen. Ord. No. 9, 1995, § 925.28, 11-9-95; Gen. Ord. No. 1, 1999, § 925.29, 2-11-99)

### **Sec. 9-37 Inspection and Sampling.**

The Agency, any duly authorized and properly identified representatives of the Agency, or properly authorized and identified representatives of any local, state, or federal regulatory agency, may inspect the facilities of any user to ascertain whether the purpose of this Article is being met and all requirements are being complied with. Persons or occupants of premises where

wastewater is created or discharged shall allow the Agency or its representatives, or any local, state, or federal representatives, ready access at all reasonable times to all parts of the premises for the purpose of inspection or sampling or in performance of any of their duties. The Agency, local state, or federal representatives shall have the right to set up on the user's property such measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, the Administrator and/or employee of the POTW, or appropriate state, or federal representatives, will be permitted to enter within a reasonable time for the purposes of performing their specific responsibilities. Inspectors may be escorted at the discretion of the user. (Gen. Ord. No. 9, 1995, § 925.29, 11-9-95; Gen. Ord. No. 1, 1999, § 925.30, 2-11-99)

**Sec. 9-38 Pretreatment.**

Users shall make wastewater acceptable under the limitations established herein before discharging to any community sewer. Any facilities required by the Agency shall be provided and maintained at the owner's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted and approved by the Agency before the construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility, as necessary, to produce an effluent acceptable to the Agency under this Article, or to any state, federal regulatory agency having the authority to impose such requirements. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Agency, and all state and federal agencies having regulatory authority. (Gen. Ord. No. 9, 1995, § 925.30, 11-9-95; Gen. Ord. No. 1, 1999, § 925.31, 2-11-99)

**Sec. 9-39 Protection from Accidental Discharge.**

As determined by the Administrator each user shall provide protection from accidental discharge of prohibited materials or other wastes regulated by this Article. Such facilities shall be provided and maintained at the user's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to and approved by the Agency and, where required, to all state, and federal agencies for review. The review of such plans and operating procedures will in no way relieve the user of the responsibility of modifying the facility as necessary, to provide the protection necessary to meet the requirements of this Section. (Gen. Ord. No. 9, 1995, § 925.31, 11-9-95; Gen. Ord. No. 1, 1999, § 925.32, 2-11-99)

**Sec. 9-40 Confidential Information.**

This Article adopts *Indiana Administrative Code 320 IAC 6*, with the included definition changes. (Gen. Ord. No. 9, 1995, § 925.32, 11-9-95; Gen. Ord. No. 1, 1999, § 925.33, 2-11-99)

**Sec. 9-41 Fees.**

- a. Discharge Permit Fee. \$500.00

- b. Inspection Charges. \$20.00/hour per person
- c. Surcharges for Critical User. 0.10/1,000 gallon wastes
- a. Surcharges for user exceeding pollution concentration limits.

<u>Pollutant</u>	<u>Concentration Limit</u>	<u>Surcharge</u>
BOD	250 mg/l	\$0.15/lb. for excess concentration
TOTAL Suspended Solids	300 mg/l	\$0.15/lb. for excess concentration
NH3	25 mg/l	\$0.50/lb. for excess concentration

e. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge, and reviewing monitoring reports submitted by industrial users. The POTW must be able to document the actual costs of these fees to a pre-treatment permit holder upon request by the permit holder or to her rate payer. (Gen. Ord. No. 9, 2005, 8-11-05)

**Sec. 9-42 Notification of Accidental Discharge.**

Users shall orally notify the Administrator at (812) 232-6564 immediately upon accidentally discharging wastewater in violation of this Article, to enable the Agency to take counter-measures to minimize damage to the community sewer, treatment facility, treatment process, and receiving waters.

This notification shall be followed, within fifteen (15) days of the date of this occurrence, by a detailed written statement describing the accidental discharge, the causes, duration, including time and dates of non-compliance, and the measures being taken to prevent future occurrences. Such notification will not relieve the users of a liability for any expense, loss, or damage to the sewer system, treatment plant, or treatment process, or for any fines imposed by the Agency by any regulations. (Gen. Ord. No. 9, 1995, § 925.34, 11-9-95; Gen. Ord. No. 1, 1999, § 925.35, 2-11-99)

**Sec. 9-43 Notice to Employees.**

In order that employees of users be informed of Agency requirements, users shall make available to their employees copies of this Article and together with such other wastewater information and notices which may be furnished by the Agency from time to time, directed toward more effective water pollution control. A notice shall be furnished and permanently posted on a user's bulletin board or other conspicuous place advising whom to call in case of accidental discharge in violation of the Article. (Gen. Ord. No. 9, 1995, § 925.35, 11-9-95; Gen. Ord. No. 1, 1999, § 925.36, 2-11-99)

**Sec. 9-44 Preventative Measures.**

Any direct or indirect connection or enter point for persistent or deleterious wastes to the user's plumbing or drainage system should be eliminated. Where such action is impractical or unreasonable, the user shall appropriately label such entry point to warn against discharge of such waste in violation of this Article. (Gen. Ord. No. 9, 1995, § 925.36, 11-9-95; Gen. Ord. No. 1, 1999, § 925.37, 2-11-99)

**Sec. 9-45 Issuance of Cease and Desist Orders.**

When the Agency finds that a discharge of wastewater has taken place in violation of prohibitions or limitations of this Article, or the provisions of a Wastewater Discharge Permit, the Agency may issue an order to cease and desist, and direct that those persons not complying with such prohibitions, limits, requirements or provisions to:

- a. Comply forthwith;
- b. Comply in accordance with a time schedule set forth by the Agency; or
- c. Take appropriate remedial or preventative action in the event of threatened violation. (Gen. Ord. No. 9, 1995, § 925.37, 11-9-95; Gen. Ord. No. 1, 1999, § 925.38, 2-11-99)

**Sec. 9-46 Compliance Schedule.**

When the Agency finds that a discharge of wastewater has been taking place in violation of prohibitions or limitations prescribed in this Article, or wastewater source control requirements, effluent limitations, or pretreatment standards, or the provisions of a Wastewater Discharge Permit, the Agency may require the user to submit for approval with modification as it deems necessary a detailed compliance schedule of specific actions which the user shall take in order to prevent or correct a violation of requirements. (Gen. Ord. No. 9, 1995, § 925.38, 11-9-95; Gen. Ord. No. 1, 1999, § 925.39, 2-11-99)

**Sec. 9-47 Appeals.**

Any user, permit applicant, or permit holder affected by any decision, action, or determination, including Cease and Desist Orders, made by the Agency, interpreting or implementing the provisions of this Article or in any permit issued herein, may file with the Agency a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the user's request for reconsideration. The Agency's decision, action, or determination shall remain in effect during such period of reconsideration. (Gen. Ord. No. 9, 1995, § 925.39, 11-9-95; Gen. Ord. No. 1, 1999, § 925.40, 2-11-99)

**Sec. 9-48 Suspension of Service/Harmful Contributions.**

The Agency may suspend the wastewater treatment service and/or the permit of a discharger if it appears to the Agency that an actual or threatened discharge presents an imminent danger to the welfare of persons, to the environment, to the operation of the Agency's wastewater treatment plant, or violates any pretreatment limits or any permit. Any discharger notified of the suspension of wastewater treatment service and/or the discharger's permit must, within a reasonable period of time, as determined by the Agency, cease all discharges. If the discharger fails to comply voluntarily with the suspension order within the specified time, the Agency must immediately commence judicial proceeding to compel the discharger's compliance with the order.

The Agency can reinstate the permit and/or the wastewater treatment service and terminate judicial proceeding provided the discharger can prove the elimination of the non-complying discharge or conditions as outlined above. (Gen. Ord. No. 9, 1995, § 925.40, 11-9-95; Gen. Ord. No. 1, 1999, § 925.41, 2-11-99)

#### **Sec. 9-49 Notification of Violation.**

Whenever the Agency finds that any discharger has engaged in conduct which justifies revocation of a permit or suspension of service, the Agency will serve the discharger with a written notice, either personally or by certified or registered mail, stating the nature of the alleged violation. Within ten (10) days of the date of receipt of this notice, the discharger must respond personally or in writing to the Agency, advising of its position with respect to the allegations. Thereafter the parties must meet to determine the seriousness of the allegations and where necessary, establish a plan for the satisfactory correction of the violations. (Gen. Ord. No. 9, 1995, § 925.42, 11-9-95)

#### **Sec. 9-50 Show Cause Hearing.**

Where a violation of the City's Ordinance or if applicable pretreatment regulations occurs and is not corrected by timely compliance, the Agency may order any discharger to show cause before them and state why the proposed permit revocation action should not be taken. A written notice must be served on the discharger by personal service, certified or registered mail, specifying the time and place of a hearing to be held by the Agency. The hearing will consider the violation, the proposed enforcement action, reasons why the enforcement action is to be taken, and directing the discharger to show cause before the Agency as to why the proposed enforcement action should not be taken. The notice of the hearing must be served no less than ten (10) days before the hearing. Service may be made on any agent, officer, or authorized representative of a discharger. The proceedings at the hearing will be considered by the Agency and appropriate orders with respect to the alleged improper activities of the discharger will be issued. (Gen. Ord. No. 9, 1995, § 925.42, 11-9-95; Gen. Ord. No. 1, 1999, § 925.43, 2-11-99)

#### **Sec. 9-51 Industrial Surveillance/Pretreatment Program (ISPP).**

The response from the Pretreatment Coordinator or the staff shall include the following: telephone contact, issuance of notice of noncompliance, written acceptance of excuse and revision schedule. (Gen. Ord. No. 1, 1999, § 925.44, 2-11-99)

**Sec. 9-52      Administrative Order.**

The response is required from the Administrator/Superintendent after a compliance meeting issued for the following violations: failure to respond to Notice of Noncompliance, failure to act on decision of Compliance Meeting; repeated and frequent failure to submit required reports or data; continued failure to notify of effluent violation, repeated spill violations, continued discharge violations, exceeding discharge limits or prohibited discharge. (Gen. Ord. No. 1, 1999, § 925.45, 2-11-99)

**Sec. 9-53      Legal Action.**

If any person discharges sewage, industrial wastes, or other wastes into the City's wastewater disposal system contrary to this Article, federal or state pretreatment requirements, or any order of the City, the City Attorney may commence an action for appropriate legal and/or equitable relief in the circuit or superior court of the county. (Gen. Ord. No. 9, 1995, § 925.43, 11-9-95; Gen. Ord. No. 1, 1999, § 925.46, 2-11-99)

**Sec. 9-54      Annual Publication of Violators.**

A list of all dischargers which were the subject of significant enforcement proceeding pursuant to provisions of this Article or state or federal regulations during the previous calendar year must be published annually by the Agency in the largest daily newspaper in the municipality in which the Agency is located. The article shall summarize the enforcement actions taken against the discharges during the calendar year in which violations have remained uncorrected forty-five (45) days or more after notification of non-compliance; or have exhibited pattern of non-compliance over that one (1) year period; or have involved failure to accurately report non-compliance; or have involved emergency exercise of authority to prevent harm to public safety or the environment. (Gen. Ord. No. 9, 1995, § 925.44, 11-9-95; Gen. Ord. No. 1, 1999, 2-11-99)

**Sec. 9-55      Upsets.**

Any discharger that experiences an upset in operations which place the discharger in a temporary state of non-compliance with the Article or permit must inform the Administrator within twenty-four (24) hours of the upset occurrence. When such information is given orally, a written report must be sent to the Administrator within five (5) working days unless extended by the Administrator. The report must specify:

- a.      Description of the upset, the cause, and the upset's impact on the discharger's compliance status;
- b.      Duration of non-compliance, including times and dates of non-compliance; and
- c.      Steps taken or to be taken to reduce, eliminate, and prevent recurrence of such an upset. (Gen. Ord. No. 9, 1995, § 925.45, 11-9-95; Gen. Ord. No. 1, 1999, § 925.48, 2-11-99)

**Sec. 9-56 Injunction.**

Whenever a discharge of wastewater is in violation of the provisions of this Article, or otherwise causes or threatens to cause a condition of contamination, pollution, or nuisance to the POTW, the Agency may petition the Vigo Superior Court for the issuance of a preliminary or permanent injunction or both, as may be appropriate in restraining the continuance of discharge. (Gen. Ord. No. 9, 1995, § 925.46, 11-9-95; Gen. Ord. No. 1, 1999, § 925.49, 2-11-99)

**Sec. 9-57 Damage to Facilities.**

When a discharge of wastes causes an obstruction, damage, or any other impairment to the Agency facilities, the Agency may assess a charge against the user for the work required to clean or repair the facility and add such charge to the user's charges and fees. (Gen. Ord. No. 9, 1995, § 925.47, 11-9-95; Gen. Ord. No. 1, 1999, § 925.50, 2-11-99)

**Sec. 9-58 Civil Penalties.**

Any person who intentionally or negligently violates any provision of this Article or permit condition or who discharges wastewater which causes pollution, or who violates any cease and desist order, prohibition, effluent limitation, national standard of performance, pretreatment or toxicity standard shall be fined in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00). Each day such violation occurs or continues shall constitute a separate violation of this Article. The attorney of the Agency upon recommendation of the Agency, shall petition the Vigo Superior Court to impose, assess, and recover such sums. (Gen. Ord. No. 9, 1995, § 925.48, 11-9-95; Gen. Ord. No. 1, 1999, § 925.51, 2-11-99)

**Sec. 9-59 Other Fines and Penalties.**

Any person who discharges sewage, industrial waste, wastewater, or other waste into the collection and/or treatment system of the City of Terre Haute shall be governed by the provisions of this Article and all applicable, local, state, and federal laws and regulations and shall indemnify the City of Terre Haute and be liable for any fine, penalty, or judgment assessed against the City of Terre Haute and/or its duly authorized Agency or Agencies as a result of said person's violation of said local, state, or federal law or regulation. (Gen. Ord. No. 9, 1995, § 925.52, 2-11-99)

**Sec. 9-60 Termination of Service.**

The Agency may revoke any permit or terminate or cause to be terminated wastewater service to any premises, if a violation of any provision of this Article is found to exist, or if a discharge or wastewater causes or threatens to cause a condition of contamination, pollution, or nuisance to the POTW, as defined in this Article. This provision is in addition to other statutes, rules, or regulations, authorizing termination of service for delinquency in payment. (Gen. Ord. No. 9, 1995, § 925.50, 11-9-95; Gen. Ord. No. 1, 1999, § 925.53, 2-11-99)

**Sec. 9-61 Falsifying Information.**

Any person who knowingly makes any false statement, representation, or certification in any application, report, or other document required by this Article or other applicable regulations, or who tampers with or knowingly renders inaccurate any monitoring device, will, upon conviction, be punished by the imposition of civil penalties as required by the local and/or state statutes. (Gen. Ord. No. 9, 1995, § 925.51, 11-9-95; Gen. Ord. No. 1, 1999, § 925.54, 2-11-99)

#### **Sec. 9-62 Compliance Schedule Reports.**

Any Industrial User which is not in compliance with the City's established limitations must develop a compliance schedule. The schedule should contain increments of progress (hiring engineers, starting construction, etc.) which correspond to specific dates for their completion. These represent major events leading to the operation of pretreatment equipment to meet the City's pretreatment standards. All Industrial Users subject to these conditions must submit a progress report to the City no later than fourteen (14) days following each date in the compliance schedule. This report must include whether it complied with the increment of progress to be met on that date, the reason for delay if the date is not met, and the steps being taken to return to compliance. In no event can more than nine (9) months elapse between progress reports. (Gen. Ord. No. 9, 1995, § 925.52, 11-9-95; Gen. Ord. No. 1, 1999, § 925.55, 2-11-99)

#### **Sec. 9-63 Reports.**

This requirement calls for the submission of all notices and self-monitoring reports from Industrial Users that are necessary to assess and assure compliance by Industrial Users with applicable pretreatment standards and requirements. These reports will normally be required on a monthly basis. (Gen. Ord. No. 9, 1995, § 925.53, 11-9-95; Gen. Ord. No. 1, 1999, § 925.56, 2-11-99)

#### **Sec. 9-64 Baseline Report - 403.12 (b).**

Within one hundred eighty (180) days after the effective date of a Federal Categorical Pretreatment Standard, or one hundred eighty (180) days after the final administrative decision made on a category, whichever is later, existing Industrial Users subject to such Federal Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the Agency's system will be required to submit to the Agency a report containing the information listed in paragraph (b) (1)-(7) or paragraph 403.12(b) of the General Pretreatment Regulations (40 *CFR* 403).

Upon promulgation of Federal Categorical Pretreatment Standard, the Agency will provide the appropriate form for distribution to the Industrial Users who are affected by the promulgated standard. The Industrial Users are then required to submit the completed report to the Agency. (Gen. Ord. No. 9, § 925.54, 11-9-95; Gen. Ord. No. 1, 1999, § 925.57, 2-11-99)

#### **Sec. 9-65 Compliance Schedule Reports - 403.12(c) (Categorical Industries).**

These reporting conditions apply to the compliance schedule required in 40 *CFR* 403.12(b)(7). This schedule is necessary whenever an Industrial User is not meeting Federal Categorical Pretreatment Standards at the time of promulgation of that Standard. The schedule contains increments of progress (i.e., hiring an engineer, completing plans, commencing construction, completing construction, etc.) which correspond to specific dates for their completion. These represent major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Federal Categorical Pretreatment Standard.

All Industrial Users subject to the conditions must submit a progress report to the Agency no later than fourteen (14) days following compliance. This report must include, at a minimum, whether or not it complied with the increment of progress to be met on that date and if not, the date on which it expects to comply, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event can more than nine (9) months elapse between such progress reports. (Gen. Ord. No. 9, 1995, § 925.55, 11-9-95; Gen. Ord. No. 1, 1999, § 925.58, 2-11-99)

#### **Sec. 9-66 Compliance Report - 403.12(d).**

Within ninety (90) days following the date for final compliance with an applicable Federal Categorical Pretreatment Standard, any Industrial User subject to those standards must submit to the Agency a report indicating the nature and concentration of all pollutants in the discharge generated from the regulated process which are limited by Federal Categorical Pretreatment Standards.

The report must also state whether applicable standards are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the discharge into compliance. This statement should be signed by an authorized representative of the Industrial User. (Gen. Ord. No. 9, 1995, § 925.56, 11-9-95; Gen. Ord. No. 1, 1999, § 925.59, 2-11-99)

#### **Sec. 9-67 Periodic Reports on Continued Compliance - 403.12(e).**

Any discharger subject to an applicable Federal Categorical Pretreatment Standard must submit to the Agency during the months of June and December, or more frequently if required by the Agency, following the final compliance date of that pretreatment standard, a report indicating the nature and concentration of prohibited or regulated substances in the discharge which are limited by the Federal Categorical Pretreatment Standards. In addition, this report must include a record of all measured or estimated average and maximum daily flows during the reporting period. Flows are to be reported on the basis of actual measurement, except, where cost of flexibility considerations justify, the Agency may accept reports of average and maximum flows estimated by verifiable techniques. The Agency, considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize submission of the reports on months other than those specified above. (Gen. Ord. No. 9, 1995, § 925.57, 11-9-95; Gen. Ord. No. 1, 1999, § 925.60, 2-11-99)

**Sec. 9-68 Record Retention.**

All discharges subject to local, state, or federal regulations must retain and preserve for at least three (3) years, any records, books, documents, memoranda, reports, correspondence, and any and all summaries relating to monitoring, sampling, and chemical analyses made by or on behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of any enforcement or litigation activities brought by the Agency must be retained and preserved by the discharger until all enforcement activities have concluded and all periods of limitation concerning any appeals have expired.

**Sec. 9-69 Significant Noncompliance.**

The Agency shall publish annually in the largest daily newspaper in Terre Haute a list of any individual users which during the previous twelve (12) months were in significant noncompliance with applicable pretreatment requirements. For purposes of this provision, significant noncompliance shall be determined by application of the criteria set forth in 40 *CFR* 403.8(2)(r)(vh). (Gen. Ord. No. 9, 1995, § 925.59, 11-9-95; Gen. Ord. No. 1, 1999, § 925.62, 2-11-99)

**Sec. 9-70 Effect.**

This Ordinance amends former Chapter 925 (Sewer Usage and Industrial Pretreat) and all other *Municipal Code* provisions inconsistent herewith. All other provisions of the *Terre Haute Municipal Code* not affected by this Ordinance shall remain in full force and effect. (Gen. Ord. No. 9, 1995, § 2, 11-9-95; Gen. Ord. No. 1, 1999, § 2, 2-11-99)

All ordinances or parts of ordinances in conflict herewith are repealed. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any part of this Ordinance, which can be given effect without such invalid part or parts. (Gen. Ord. No. 9, 1995, § 925.58, 11-9-95; Gen. Ord. No. 1, 1999, § 925.61, 2-11-99)

**Sec. 9-71 Reserved for Future Use.**

**ARTICLE 3. REGULATIONS ADDRESSING CONNECTIONS TO AND USE OF PUBLIC AND PRIVATE SEWERS AND DRAINS, INSTALLATION AND CONNECTION OF BUILDING SEWERS, AND DISCHARGE.**

**Sec. 9-72 Definitions.<sup>7</sup>**

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<sup>7</sup> Editor's Note: Article 3 sets forth the provisions of Gen. Ord. No. 12, 1970, As Amended, which was passed on June 3, 1970. The *1/94 Municipal Code* set forth the provisions of Ord. No. 6, 1961 instead of Gen. Ord. No. 12, 1970, which the 1999 codifiers believe was in error.

Unless the context specifically indicates otherwise, the meaning of terms used in this Article shall be as follows:

- a. **Sewage Works.** All facilities for collecting, pumping, treating, and disposing of sewage.
- b. **Superintendent.** The Superintendent of the municipal sewage works of the City of Terre Haute, Indiana, or his authorized deputy, agent or representative.
- c. **Inspector.** The person or persons duly authorized by the City, through its Board of Public Works and Safety, to inspect and approve the installation of building sewers and their connection to the public sewer system.
- d. **Sewage.** A combination of the water carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.
- e. **Sewer.** A pipe or conduit for carrying sewage.
- f. **Public Sewer.** A sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- g. **Combined Sewer.** A sewer receiving both surface run off and sewage.
- h. **Sanitary Sewer.** A sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
- i. **Storm Drain** (sometimes termed "STORM SEWER"). A sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- j. **Sewage Treatment Plant.** Any arrangement of devices and structures used for treating sewage.
- k. **Industrial Wastes.** The liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- l. **Garbage.** Solid wastes from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.
- m. **Properly Shredded Garbage.** The wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half (1/2) inch in any dimension.

- n. **Sanitary Building Drain.** That part of the lowest horizontal piping of the sanitary drainage system inside the walls of any building, which receives the discharge from soil or waste stacks and branches and conveys the same to a point three feet (3') outside the building walls where it connects with its respective building sewer.
- o. **Building Sewer.** The extension from the building drain to the public sewer or other place of disposal.
- p. **B.O.D.** (denoting **Biochemical Oxygen Demand**). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty degrees (20°) C, expressed in milligrams per liter.
- q. **pH.** The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- r. **Suspended Solids.** Solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- s. **Natural Outlet.** Any outlet into a watercourse, pond, ditch, lake, or other body of surface or groundwater.
- t. **Watercourse.** A channel in which a flow of water occurs, either continuously or intermittently.
- u. **Person.** Any individual, firm, company, association, society, corporation, or group.
- v. **Shall** is mandatory; **May** is permissive.
- w. **Sludge.** Any discharge of water, sewage or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
- x. **Board.** The Board of Public Works and Safety of the City or its duly authorized agent or employee. (Gen. Ord. No. 12, 1970, As Amended, §1, 6-3-70; *Journal of Common Council*, pp. 135-136)

### **Sec. 9-73 Unlawful Discharges.**

- 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 said City, any human or animal excrement, garbage, or other objectionable waste.

b. It shall be unlawful to discharge to any natural outlet within said City, or in any area under the jurisdiction of said City, any sewage or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this Article.

c. 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.

d. 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 or combined sewer of the City, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Article, within ninety (90) days after date of official notice to do so, provided that said public sewer is within one hundred feet (100') of the property line. (Gen. Ord. No. 12, 1970, As Amended, § 2, 6-3-70; *Journal of Common Council*, p. 137)

#### **Sec. 9-74 Compliance Standards.**

a. Where a public sanitary or combined sewer is not available under the provisions of Section 9-76 d., the building sewer shall be connected to a private sewage disposal system complying with all recommendations of the Indiana State Board of Health.

b. At such time as a public sewer becomes available to a property served by a private sewage disposal system as provided in Section 9-76 d., a direct connection shall be made to the public sewer in compliance with this Article, and any septic tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

c. The owner shall operate and maintain the private sewage disposal facilities in sanitary manner at all times, at no expense to the City.

d. No statement contained in this Article shall be construed to interfere with any additional requirements that may be imposed by the local Health Officer. (Gen. Ord. No. 12, 1970, As Amended, § 3, 6-3-70; *Journal of Common Council*, pp. 138-139)

#### **Sec. 9-75 Connection and Installation Regulations.**

a. No unauthorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the City Controller.

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

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

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

e. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, and backfilling the trench, shall all conform to the requirements of the building 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 the latest edition of Volume III, Plumbing Rules & Regulations of the Administrative Building Council of the State of Indiana shall apply.

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

g. No person shall make connection of roof, downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

h. The connection of the building sewer into the public sewer shall be made by the "Y" branch, if such branch is available at a suitable location. If the public sewer is twelve inches (12") in diameter or less and no properly located "Y" branch is available, the owner shall at his expense install a "Y" branch in the public sewer at the location specified by the said Inspector. Where the public sewer is greater than twelve inches (12") in diameter, and no properly located "Y" branch is available, a neat hole may be cut in the public sewer to receive the building sewer, with entry in the downstream direction at an angle of about forty-five degrees (45°) ell may be used to make such connection, with the spigot end cut so as not to extend past the inner surface of the public sewer. The invert of the building sewer at the point of connection shall be in the upper quadrant of the public sewer; provided that connection may be made at a lower point in the public sewer upon approval by the Board. A smooth neat joint shall be made, and the connection made secure and water tight by encasement in concrete. Special fittings may be used for the connection only when approved by the said Inspector.

i. The applicant for the building sewer permit shall notify the said Inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the said Inspector or his representative.

j. All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and

other public property disturbed in the course of the work shall be restored in a manner satisfactory to the said City.

k. Cleanout shall be installed at all building sewer deflections exceeding forty-five degrees (45°). (Gen. Ord. No. 12, 1970, As Amended, § 4, 6-3-70; *Journal of Common Council*, pp. 139-140)

**Sec. 9-76 Discharge Regulations.**<sup>8</sup>

a. No person shall discharge or cause to be discharged any stormwater, surface water, groundwater, roof runoff, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.

b. Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as combined sewers, or storm sewers, or to a natural outlet approved by the said Superintendent. Industrial cooling water or unpolluted process waters may be discharged, on approval of the said Superintendent, to a storm sewer, combined sewer, or natural outlet.

c. No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:

(1) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas.

(2) Any waters or wastes containing toxic or poisonous solids, liquids, or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, create a public nuisance, or create any hazard in the receiving waters of the sewage treatment plant.

(3) Any waters or wastes having a pH lower than 5.5, or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.

(4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers, or other interference with the proper operation of the sewage works such as, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

d. No person shall discharge or cause to be discharged the following described substances, materials, waters, or wastes if it appears likely in the opinion of the Board that such wastes can harm either the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property, or constitute

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<sup>8</sup> Editor's Note: § 9-7 through § 9-68 set forth pretreatment regulations and should be consulted.

a nuisance. In forming his opinion as to the acceptability of these wastes, the Board will give consideration to such factors as the quantities of subject wastes in relation to flows and velocities in the sewers, materials of construction of the sewers, nature of the sewage treatment process, capacity of the sewage treatment plant, degree of treatability of wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

(1) Any liquid or vapor having a temperature higher than one hundred fifty degrees (150°).

(2) Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of one hundred (100) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32°) and one hundred fifty degrees (150°) F.

(3) Any garbage that has not been properly shredded. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower or greater shall be subject to the review and approval of the Superintendent.

(4) Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.

(5) Any waters or wastes containing iron, chromium, copper, zinc, and similar objectionable or toxic substances; or wastes exerting an excessive chlorine requirement, to such degree that any such material received in the composite sewage at the sewage treatment works exceeds the limits established by the Board for such materials.

(6) Any waters or wastes containing phenols or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Board as necessary, after treatment of the composite sewage, to meet the requirements of the State, Federal, or other public agencies of jurisdiction for such discharge to the receiving waters.

(7) Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board in compliance with applicable State or Federal regulations.

(8) Any waters or wastes having a pH in excess of 9.5.

(9) Materials which exert or cause:

(A) Unusual concentrations of inert, suspended solids (such as, but not limited to, Fullers earth, lime slurries, and lime residues) or of dissolved solids (such as, but not limited to, sodium chloride and sodium sulfate).

(B) Excessive discoloration (such as, but not limited to, dye wastes and vegetable tanning solutions).

- (C) Unusual B.O.D., chemical oxygen demand, or chlorine requirements in such quantities as to constitute a significant load on the sewage treatment works.
- (D) Unusual volume of flow or concentration of wastes constituting “slugs” as defined herein.

(10)

Waters or wastes containing substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such degree that the sewage treatment plant effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.

e. If any waters or wastes are discharged, or are proposed to be discharged, to the public sewers, which waters contain the substances or possess the characteristics enumerated in Sec. 9-79 d. of this Article, and which in the judgment of the Board may have a deleterious effect upon the sewage works, processes equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Board may:

- (1) Reject the wastes;
- (2) Require pretreatment to an acceptable condition for discharge to the public sewers;
- (3) Require control over the quantities and rates of discharge; and/or
- (4) Require payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of this Article.

If the Board permits the pretreatment or equalization of waste flows, the design and installation of the plans and equipment shall be subject to the review and approval of the Board and subject to the requirements of all applicable codes, ordinances, and laws.

f. Grease, oil, and sand interceptors shall be provided when, in the opinion of the said Board, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Superintendent, and shall be located as to be readily and easily accessible for cleaning and inspection.

g. Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his expense.

h. When required by the Board, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such manhole, when required, shall be accessibly and

safely located, and shall be constructed in accordance with plans approved by the Board. The manhole shall be installed by the owner at his expense, and shall be maintained by him so as to be safe and accessible at all times.

i. All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the American Public Health Association, and shall be determined at the control manhole provided, or upon suitable samples taken at said control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb, and property.

j. No statement contained in this Section shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment therefor, by the industrial concern. (Gen. Ord. No. 12, 1970, As Amended, § 5, 6-3-70; *Journal of Common Council*, pp. 140-143)

#### **Sec. 9-77      Damage Prohibited.**

No unauthorized person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Gen. Ord. No. 12, 1970, As Amended, § 6, 6-3-70; *Journal of Common Council*, pp. 143-144)

#### **Sec. 9-78      Inspections, Samplings and Testing.**

a. The Superintendent, Inspector, and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all properties for the purposes of inspection, observation, measurement, sampling, and testing in accordance with the provisions of this Article. The Board or his representatives shall have no authority to inquire into any processes including metallurgical, chemical, oil, refining, ceramic, paper, or other industries beyond that point having a direct bearing on the kind and source of discharge to the sewers or waterways or facilities for waste treatment. At any time upon request of the Board, Industrial Users shall furnish quantitative and qualitative analyses of their effluent to the Board.

b. While performing the necessary work on private properties referred to in Sec. 9-78 a. above, the Board or duly authorized employees of the City shall observe all safety rules applicable to the premises established by the company and the company shall be held harmless for injury or death to City employees and the City shall indemnify the company 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 company and growing out of the gauging and

sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Sec. 9-76 h.

c. The Superintendent and other duly authorized employees of the City bearing proper credentials and identification shall be permitted to enter all private properties through which the City holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the sewage works lying within said easement. All entry and subsequent work, if any, on said easement, shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved. (Gen. Ord. No. 12, 1970, As Amended, § 7, 6-3-70; *Journal of Common Council*, p. 144)

**Sec. 9-79 Construction Requirements for Building Sewers.**

All building sewers shall be constructed in accordance with the Standards and Specifications of the City of Terre Haute. (Gen. Ord. No. 28, 2000, 12-14-00)

**Sec. 9-80 Certain Wastes to Storm or Combined Sewers.<sup>9</sup>**

**Sec. 9-81 Penalties.**

a. Any person found to be violating any provision of this Article except Section 9-77 shall be served by the City with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof, and the offender shall, within the period of time stated in such notice, permanently cease all violations, provided that with respect to violations of Section 9-73 d. the notice shall be by certified mail and shall allow at least ninety (90) days for the connection required by said Section 9-73 d.

b. Any person who shall continue any violation beyond the time limit provided for in Sec. 9-81 a. shall be guilty of an ordinance violation and upon conviction thereof shall be fined in an amount not exceeding One Hundred Dollars (\$100.00) for each violation. Each day in which any such violation shall continue shall be deemed a separate offense. (Gen. Ord. No. 26, 2004, 11-9-04)

c. Any person violating any of the provisions of this Article shall become liable to the City for any expense, loss, or damage occasioned the City by reason of such violation. (Gen. Ord. No. 12, 1970, As Amended 6-3-70, § 7, *Journal of Common Council*, pp. 144-145)

**Sec. 9-82 through Sec. 9-87 Reserved for Future Use.**

**ARTICLE 4. SEPTIC TANK REGULATIONS.<sup>10</sup>**

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<sup>9</sup> Editor's Note: § 9-80 "Certain Wastes to Storm or Combined Sewers" was deleted by Gen. Ord. No. 29, 2000, 12-14-00.

<sup>10</sup> *I.C.* § 16-41-25-1, *et seq.*, address residential septic systems.

**Sec. 9-88 Definitions.**

a. **Septic Tank.** A septic toilet, chemical closet and any other watertight enclosure used for storage and decomposition of human excrement and domestic wastes.

b. **Seepage Pit.** A dry well, leaching pit or any other cavity in the ground which receives the liquid discharge of a septic tank.

c. **Cesspool.** A cavity in the ground which receives human excrement and domestic wastes to be partially absorbed directly by the surrounding soil. (*1964 Terre Haute Municipal Code*, § 1311.01)

**Sec. 9-89 License Required.**

No person shall engage in the servicing and cleaning of septic tanks, seepage or cesspools within the City until such time as he has applied for and has been issued a license to do so by the City Controller. (*1964 Terre Haute Municipal Code*, § 1311.02)

**Sec. 9-90 State License; City License Fee.**

No person shall be issued a license by the City Controller until such time as he displays or gives evidence of the fact that a license to engage in the servicing and cleaning of septic tanks, seepage pits and cesspools has been issued to him by the State Health Commissioner. In the event the applicant establishes that he has been duly licensed by the State Health Commissioner, and upon the payment of a license fee of Twenty Five Dollars (\$25.00), the City Controller shall issue a license to the applicant permitting the applicant to engage in servicing and cleaning septic tanks, seepage pits and cesspools within the City. Such license shall be valid during the calendar year for which the State license was issued. (*1964 Terre Haute Municipal Code*, § 1311.03)

**Sec. 9-91 State Approved Vehicles and Equipment.**

Licenses under this Article shall use only State approved vehicles and equipment as required by State law. (*1964 Terre Haute Municipal Code*, § 1311.05)

**Sec. 9-92 Disposal of Waste at City Disposal Plant; Regulations and Rates.**<sup>11</sup>

a. SEPTIC TANK SERVICE INSIDE COUNTY. Every person engaged in the business of servicing or maintaining septic tanks, seepage pits or cesspools within the County, may dump all such waste at the Terre Haute Sewage Disposal Plant, at the place provided therefor. A laboratory analysis of said waste may be performed by the Wastewater Treatment Plant, for any person who so desires. Fees may be charged by Wastewater Treatment Plant for said laboratory analysis.

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<sup>11</sup> Editor's Note: Gen. Ord. No. 14, 1990, As Amended § 1311.05 amended Gen. Ord. No. 2, 1984 which had been passed on March 8, 1984.

Fees for the expeditious and efficient handling of such waste and the immediate cleansing of all tanks and/or vehicles used to transport the waste to such plant are as follows:

1991 - BEGINNING JANUARY 1, 1991

\$ 50.00.....first 2, 000 gallons  
\$ 25.00 .....each additional 1,000 gallons

b. SEPTIC TANK SERVICE OUTSIDE COUNTY. Every person engaged in the business of servicing or maintaining septic tanks, seepage pits or cesspools or who brings waste from any such septic tank, seepage pit or cesspool into the County may dump all such waste at the Terre Haute Sewage Disposal Plant, at the place provided therefor. A laboratory analysis of said waste may be performed by the Wastewater Treatment Plant, for any person who so desires. Fees may be charged by Wastewater Treatment Plant for said laboratory analysis.

Fees for the expeditious and efficient handling of such waste and the immediate cleansing of all tanks and/or vehicles used to transport the waste to such plant are as follows:

\$ 200.00.....first 2,000 gallons  
\$ 400.00.....2,000 to 4,000 gallons  
\$ 600.00.....4,000 to 6,000 gallons

(Gen. Ord. No. 14, 1990, As Amended § 1311.05, 1-10-91)

**Sec. 9-93 Penalty.**

Whoever violates any of the provisions or Section 9-92 shall be fined not less than Twenty Five Dollars (\$25.00) nor more than One Hundred Dollars (\$100.00) and costs. Each day upon which a continuing violation occurs shall be deemed a separate offense. (Spec. Ord. 50, 1964, 12-23-64; 1964 *Terre Haute Municipal Code*, § 1311.99)

**Sec. 9-94 through Sec. 9-97 Reserved for Future Use.**

**ARTICLE 5. SEWER RATES AND CHARGES.**

**Sec. 9-98 Basis of Sewer Charges.<sup>12</sup>**

For the use of and services rendered by the sewage works, rates and charges shall be collected from the owners of each and every lot, parcel of real estate or building that is connected to the City's sewage system or otherwise discharges sanitary sewage, industrial wastes, water or other liquids, either directly or indirectly, into the sewage system of the City of Terre Haute,

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<sup>12</sup> I.C. § 36-9-25-11, addresses the setting of fees for the treatment and disposal of sewage and other waste discharged into the sewerage system.

which rates and charges are payable as hereinafter provided and shall be in an amount determinable as follows:

Except as in this Article otherwise provided, the sewage rates and charges shall be based on the quantity of water used on or in the property or premises subject to such rates and charges as the same is measured by the water meter there in use and shown by the consumption records of the water utility serving the City of Terre Haute and its inhabitants. (Gen. Ord. No. 1, 1977, As Amended, § 1, 2-10-77, *Journal of Common Council*, p. 19)

**Sec. 9-99 Minimum Charges.**

The water usage schedule and the applicable sewage rates and charges based thereon shall be as follows as of the dates shown:

a. The rate for water used or sewage discharged inside the City shall be:

July 1, 2004 One Dollar and Fifty One Cents (\$1.51) per one hundred (100) cubic feet.

January 1, 2005 Two Dollars and Forty Eight Cents (\$2.48) per one hundred (100) cubic feet. (Gen. Ord. No. 12, 2004, As Amended, 7-8-04)

b. A minimum charge for any user inside the City per month or quarter according to the billing period shall be:

July 1, 2004 Four Dollars and Seventy Two Cents (\$4.72).

January 1, 2005 Seven Dollars and Seventy Six Cents (\$7.76) except that in the event the user is not a metered water customer, the minimum charge shall be determined by means and methods satisfactory to the City. (Gen. Ord. No. 12, 2004, As Amended, 7-8-04)

c. The rate for water used or sewage discharged outside the City shall be:

July 1, 2004 One Dollar and Eighty Nine Cents (\$1.89) per one hundred (100) cubic feet.

January 1, 2005 Three Dollars and Ten Cents (\$3.10) per one hundred (100) cubic feet. (Gen. Ord. No. 12, 2004, As Amended, 7-8-04)

d. A minimum charge for any user outside the City per month or quarter according to the billing period shall be:

July 1, 2004 Five Dollars and Ninety One Cents (\$5.91).

January 1, 2005            Nine Dollars and Seventy Two Cents (\$9.72) except that in the event the user is not a metered water customer, the minimum charge shall be determined by means and methods satisfactory to the City. (Gen. Ord. No. 12, 2004, As Amended, 7-8-04)

e.        Except that all domestic non-commercial non-industrial users inside the City with non-metered water source shall pay a flat fee per quarter of:

July 1, 2004              Thirty Eight Dollars and Fifty Six Cents (\$38.56).

January 1, 2005          Sixty Three Dollars and Thirty Eight Cents (\$63.38). (Gen. Ord. No. 12, 2004, As Amended, 7-8-04)

f.        Except that all domestic non-commercial non-industrial users outside the City with non-metered water source shall pay a flat rate per quarter of:

July 1, 2004              Forty Eight Dollars and Nineteen Cents (\$48.19).

January 1, 2005          Seventy Nine Dollars and Twenty Three Cents (\$79.23). (Gen. Ord. No. 12, 2004, As Amended, 7-8-04)

g.        The City of Terre Haute, its departments and agencies are exempt from the payment of the sewage rates listed in Sec. 9-99. (Gen. Ord. No. 28, 2001, 1-10-02)

**Sec. 9-100    Yearly Cost Analysis by Common Council.**

The Common Council of the City of Terre Haute shall be responsible for review of sewage rates and charges during the month of December of each calendar year. The Council shall make adjustments of said sewage rates and charges for the upcoming year as based upon factors including but not limited to a cost analysis of the eleven (11) month period of January through November of the current year, said analysis to be provided by the utility to the Council. Such rates and charges that are established may also be based upon projected cost for the upcoming year.

In order to properly execute the above stated duty the Common Council of the City of Terre Haute shall by this Article be given and have vested in it the power and authority to approve and set all items in the yearly budget of the City Sewage Utility.

The City Sewage Utility will submit its budget at the appropriate time, along with those of the other city departments, and the Common Council will exercise the same control over this budget as it does with those of the several city departments. (Gen. Ord. No. 1, 1977, As Amended, § 1(c), 2-10-77, *Journal of Common Council*, pp. 19-20)

**Sec. 9-101    Role of Board of Public Works and Safety.**

The quantity of water obtained from sources other than the water utility serving the City of Terre Haute and discharged into the sewage system may be determined by the City in such manner as the Board of Public Works and Safety shall elect and the sewage services shall be billed at the above appropriate rates. (Gen. Ord. No. 1, 1977, As Amended, § 1(d), 2-10-77, *Journal of Common Council*, p. 20)

**Sec. 9-102 Measuring Devices for Users Who Are Not Water Users.**

In the event a lot, parcel of real estate or building discharging sewage, industrial wastes, water or other liquids into the City's sewage system, either directly or indirectly, is not a user of water supplied by the water utility serving the City of Terre Haute and its inhabitants and the water used thereon and therein is not measured by a meter, or is measured by a meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to ascertain the rate or charge, or the owner or other interested party, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for the determination of the sewage discharge. (Gen. Ord. No. 1, 1977, As Amended, § 1(e), 2-10-77, *Journal of Common Council*, p. 20)

**Sec. 9-103 Meters and Measuring Devices for Certain Users.**

In the event a lot, parcel of real estate or building discharging sewage, industrial wastes, water or other liquids into the City's sewage system, either directly or indirectly, is a user of water supplied by the water utility serving the City of Terre Haute and its inhabitants and in addition uses water from another source which is not measured by a water meter or is measured by a water meter not acceptable to the City, then the amount of water used shall be otherwise measured or determined by the City in order to ascertain the rate or charge, or the owner or other interested party, at his expense, may install and maintain meters, weirs, volumetric measuring devices or any adequate and approved method of measurement acceptable to the City for determination of sewage discharge. (Gen. Ord. No. 1, 1977, As Amended, § 1(f), 2-10-77, *Journal of Common Council*, p. 20)

**Sec. 9-104 Volume, Strength and Character of Sewage and Waste.**

a. In order that the rates and charges may be justly and equitably adjusted to the services rendered, the City shall have the right to base its charges not only on volume but also on the strength and character of the sewage and waste which it is required to treat and dispose of. The City shall have the right to measure and determine the strength and content of all sewage and wastes discharged, either directly or indirectly, into the City's sanitary sewerage system, in such manner and by such method as may be deemed practical in the light of the conditions and attending circumstances of the case, in order to determine the proper charge. The Board of Public Works and Safety is authorized to prohibit the dumping of wastes into the City's sewerage system which, in its discretion, are deemed harmful to the operation of the sewage disposal works of the City. (Gen. Ord. No. 2, 1981, As Amended, § 1(g), 9-10-81)

b. In the event a lot, parcel of real estate or building is discharging sewage, industrial wastes, water or other liquids into the City's sewage system, either directly or indirectly, and it

can be shown, to the satisfaction of the City, that a portion of the water as measured by the water meter or meters does not and cannot enter the sewage system, then the City may determine in such manner and by such method as it may deem practicable the percentage of metered water entering the sewage system. Such percentage, when so determined, shall then constitute the basis of sewage rate or charge, provided, however, that the City in its discretion may require or permit the installation of suitable equipment at the expense of the owner or other interested party in such a manner as to determine the quantity of water used to determine the sewage rate or charge shall be the quantity of water actually entering the sewage system as so determined. (Gen. Ord. No. 12, 2004, As Amended, 7-8-04)

**Sec. 9-105 Sewer Connection Fees.**<sup>13</sup>

For connection to sanitary sewers, such owner shall pay to the Board of Public Works and Safety a connection charge in accordance with the following schedule:

a. **Existing Residences.** For each existing single-family residential connection the base fee of Five Hundred Dollars (\$500.00), payable in equal quarterly installments over a maximum period of five (5) years. A charge equal to ten percent (10%) of delinquent quarterly fees will be assessed on payments made after the due date of said payments. The unpaid balance shall be immediately due and payable upon conveyance of said property.

b. **New Residences.** For each new single-family residential connection the base fee of Five Hundred Dollars (\$500.00) payable at time of construction.

c. **Multiple Family Residences.** Multiple family residential connection fees shall be: the base fee multiplied by 0.65 multiplied by the number of units. (Example: Duplex connection fee \$500 x 0.65 x 2 = \$650). (Gen. Ord. No. 14, 1990, As Amended, § 3, (913.05), 1-10-91; Gen. Ord. No. 35, 2004, 12-09-04)

d. **Commercial/Industrial** – All other structures not covered in the above should be based on the following connection fee schedule:

<b>Domestic Water Meter Size (Inches)</b>	<b>Connection Fee</b>
5/8	base fee
3/4	1.5 times base fee
1	2.5 times base fee
1½	6 times base fee
2	10 times base fee
3	23 times base fee
4	41 times base fee
6	case by case

<sup>13</sup> Editor’s Note: Gen. Ord. No. 14, 1990, As Amended, raised the fee for existing residences and new residences from \$400.00 to \$500.00 which had been established in Gen. Ord. No. 12, 1980, passed December 11, 1980.

If an additional or larger meter is installed for an existing non-single family residential customer, a connection fee shall be assessed based on the following formula:

Additional flow generated by the customer divided by flow generated by average single family residential customer multiplied by the base fee. (Gen. Ord. No. 35, 2004, 12-09-04)

**Sec. 9-106 Application for Permit; Waivers.**<sup>14</sup>

The owner of each and every lot, parcel of real estate or building who makes or is ordered by the Board of Public Works and Safety to make application for a permit to connect with the sewage system of the City shall pay a charge or charges for such permit and connection as follows:

a. Such owner shall make application on a special form furnished by the City. The permit applications shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the inspector. There shall be paid to the City Controller at the time the application is filed a permit and inspection fee in the amount of Ten Dollars (\$10.00) regardless of the type of connection or the type of premises for which connection is sought.

The Board of Public Works and Safety may waive the connection charges (but not permit and inspection fee) provided for herein where such owner's participation in the construction of a local sewer, which local sewer is connected with the City's sewage works system, results in his share of the cost of construction of such local sewer being more than the applicable connection charge or charges. The Board of Public Works and Safety may also waive connection charges, (but not the permit and inspection fee) where the property owner relinquishes to the City, right-of-way, easement or other rights of property, real or intangible, that are deemed to be of equal or greater value than the connection charge. (Gen. Ord. No. 1, 1977, As Amended § 2, (a) & (b), 2-10-77, *Journal of Common Council*, pp. 21-22)

**Sec. 9-107 Definitions.**

The terms "**Sewage**" and "**Industrial Wastes**" shall be defined as follows:

a. **Sewage.** Waste from water closets, urinals, lavatories, sinks, bathtubs, showers, household laundries, basement drains, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains and all other water carried waste except industrial waste.

b. **Industrial Wastes.** The liquid waste or liquid-borne waste resulting from any commercial, manufacturing, or industrial operation or process. (Gen. Ord. No. 1, 1976, As Amended § 3, 6-10-76, *Journal of Common Council*, p. 171)

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<sup>14</sup> Editor's Note: Subsection c of § 2 of Gen. Ord. No. 1, 1977, as amended, was not included since it specifically dealt with contracts of the 1967 calendar year.

**Sec. 9-108 Monthly Billings.**

The rates and charges shall be prepared and billed by the City of Terre Haute and shall be collected in the manner provided by law and ordinance. Said rates and charges may be billed to the tenant or tenants occupying the property served unless otherwise requested in writing by the owners, but such billings shall in no way relieve the owners from liability in the event payment is not made as herein required. The owners of property served which are occupied by tenants shall have the right to examine the collection records of the City for the purpose of determining whether such rates and charges have been paid by such tenants, provided that such examination shall be made at the office in which said records are kept during the hours that such office is open for business.

Billing for sewage rates and charges shall be made monthly and/or quarterly, and such rates and charges, except as hereinbefore provided, shall be based upon the quantity of water used on or in the property or premises as the same is measured by the meter there in use, and said metered water usage shall be determined from the meter readings as furnished by the water utility serving the City of Terre Haute and its inhabitants. (Gen. Ord. No. 1, 1976, As Amended § 4, 6-10-76, *Journal of Common Council*, p. 171)

**Sec. 9-109 By-Laws and Regulations.**

The Board of Public Works and Safety shall make and enforce such by-laws and regulations as may be deemed necessary for the safe, economical, and efficient management of the City's sewage works including the sewer system and the treatment plant, for the construction and use of house sewers and connections to the sewer system, and for the regulation, collecting, rebating, and refunding of rates and charges. (Gen. Ord. No. 1, 1976, As Amended § 5, 6-10-76, *Journal of Common Council*, p. 171)

**Sec. 9-110 Lawn Sprinkling Allowance.**

Any residential user now paying sewer use charges shall be entitled to a lawn sprinkling allowance for one (1) quarterly billing period selected by Sewage Billing each year, such allowance to be granted upon written application of such residential user of the Sewage Disposal Works Collection Office, City Hall.

a. Such lawn sprinkling allowance shall be computed in accordance with the following formula:

The Sewage Billing Department shall select the quarterly billing periods within the preceding year reflecting the lowest and the highest volume of water consumed by the user. To the lowest volume of water consumed, an additional thirty percent (30%) shall be added to reflect the normal summertime usage. The sprinkling adjustment shall be an amount equal to the excess volume between the highest volume consumed during the preceding year and the normal summertime usage (which is the lowest volume consumed plus thirty percent (30%)). The

adjustment will be applied to one (1) quarterly billing during each year as selected by the Sewage Billing Department.

b. In no instance shall estimated quarterly usage volumes be used in calculating the sprinkling allowance, usage must be from actual meter readings. Further, applicant must have been an occupant and active user of the sewage disposal system for no less than one (1) year. (*1/94 Terre Haute Municipal Code*, § 915.02, (h), p. 24)

### **Sec. 9-111 Utility Deposits.**

a. Deposits by Users.

All person applying for the use of and using water within the City of Terre Haute, Indiana, upon the inception of such use and upon application for such use shall be required to pay a deposit for an assessment to such user for a three (3) month period, prior to the commencement of such water usage by such person. (Gen. Ord. No. 3, 1966, As Amended, § 1, 1-8-72)

b. The Handling and Retention of Water Deposits.

The sewage disposal works shall be and is empowered to collect and retain deposits as provided in Section a. herein, and be further empowered to establish a separate account for the deposit of same in the name and under the control of said sewage works, and be further empowered to invest the same in tangible bills and any other evidence of debt and authorized to retain, as fees for handling said account, all interest or other accrual payments as the sole property of said sewage works. (Gen. Ord. No. 3, 1966, As Amended, § 2, 1-8-72)

c. Refunds of Water Deposits.

The sewage disposal works, from and after the expiration of three (3) years shall be and is directed to refund to any such user the deposit so paid by such user provided and on the condition that such user has kept current his water bill and sewage disposal fees during said three (3) year period and further provided that said user's water bill and sewage disposal fees are current at the date of the proposed refund after the expiration of said three (3) year period. (Gen. Ord. No. 3, 1966, As Amended, § 3, 1-8-72)

d. Discontinuance or Refusal of Water Service.

The sewage disposal works shall keep full and adequate books and records of all sewage disposal fees incurred and paid by users. If a fee for sewer use is not paid within one (1) monthly billing cycle after it is due, notice shall be sent to the user stating the amount of user fees along with any penalty owed which is delinquent; giving notice that water service may be discontinued if the user continues not to pay the delinquency and any penalty; that in the event water service is discontinued, the user shall also be responsible for payment of any costs incurred by the sanitary utility for the disconnection and/or reconnection of the water service; and the procedure for resolving disputed bills. If the user fails to pay the delinquent amount, including

any penalty, or otherwise resolve the charges, notice may be given by the sanitary utility to the water utility serving the user to discontinue water services to the premises. Any cost incurred for the disconnection and/or reconnection of the water utility shall be charged to the user along with the delinquent sewer use fees and any penalty. If the water utility shall disconnect water service to the user, the water service in the name of the delinquent user shall not be restored at the same premises or at any other premises served by the sanitary utility unless and until the disconnection and/or reconnection fee, all delinquent user fees and penalties are paid. (Gen. Ord. No. 31, 2004, 12-09-04)

e. **Implementation and Enabling Section.**

The sewage disposal works of the City of Terre Haute, Indiana, shall be and is authorized to adopt and in connection herewith any and all procedures and collateral remedies determined necessary by such council in the implementation and enabling of the foregoing provisions. This Section shall be in force from and after January 1, 1967, and applies to new applications only. (Gen. Ord. No. 3, 1966, As Amended, § 5, 1-8-72)

**Sec. 9-112 Penalty.**

Any person violating any of the provisions of this Article shall be fined not more than Three Hundred Dollars (\$300.00). Each day's continued violation shall constitute a separate offense. (Gen. Ord. No. 16, 1997, 12-11-97)

**Sec. 9-113 through Sec. 9-119 Reserved for Future Use.**

**ARTICLE 6. WASTEWATER TREATMENT FACILITIES.**<sup>15</sup>

**Sec. 9-120 Revenue Fund.**

All revenues received on account of the sewage system shall be segregated and kept in a special fund separate and apart from all other funds of the City, which special fund is designated as the "*Revenue Fund*". Out of the Revenue Fund the proper and reasonable expenses of operation, repair, and maintenance of the sewer system (including an allowance for depreciation) shall be paid and the requirements of the Sewage Works Sinking Fund shall be met. The City shall keep proper books of records and accounts, separate from all of its other records and accounts, in which complete and correct entries shall be made showing all revenues collected from said sewer system and deposited in the Revenue Fund, and all disbursements made therefrom on account of the operation of the sewer system, and to meet the requirements of the Sewage Works Sinking Fund, also all other financial transactions relating to the sewer system; including the amounts set aside or credited to the Operation and Maintenance Fund, the Sewage Works Sinking Fund and the Sewage Works Improvement Fund, and the cash balances in each

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<sup>15</sup> Editor's Note: Other funds and fiscal procedures are set forth in § 2-110 through § 2-137 of this *Code*. Gen. Ord. No. 4, 1988, in its entirety, continues in effect and is available for public inspection during regular office hours in the City Clerk's Office.

of said funds as of the close of the preceding fiscal year. There shall be prepared and furnished to the original purchasers of the bonds and, upon written request, to any owner of the bonds at the time then outstanding, not more than ninety (90) days after the close of each fiscal year, income and expense and balance sheet statements of the sewer system covering the preceding fiscal year, which annual statements shall be certified by the City Controller, or the person charged with the duty of auditing the books and records relating to the said sewer system, or an independent certified public accountant employed for that purpose. Copies of all such statements and reports shall be kept on file in the Office of the City Controller. Any owner or owners of the bonds then outstanding shall have the right at all reasonable times to inspect the sewer system and all records, accounts, and data of the City relating thereto. Such inspections may be made by representatives duly authorized by written instrument.

From and after the delivery of any bonds issued under the provisions of this Article, all gross revenues of the sewer system shall be set aside and apportioned as follows:

a. On the third Friday of each month there shall be set aside and paid out of the Revenue Fund into the Operation and Maintenance Fund created pursuant to the 1961 Ordinance and continued pursuant to the 1978 Ordinance, an amount considered necessary and sufficient to pay the reasonable current expenses of operating and maintaining the sewer system for the current month, which amount shall be applied as provided in Sec. 9-121 hereof. In the event of a deficiency further transfers may be made from the Revenue Fund in like manner on any subsequent date to the extent necessary to pay the expenses of operation and maintenance actually accrued and payable.

b. After the payment required by the preceding paragraph a. there shall next be set apart and paid out of the Revenue Fund into the Sewage Works Sinking Fund, in monthly installments, amounts as provided in Sec. 9-121 hereof to pay the interest on and principal of the bonds authorized, and any parity bonds as may be issued and outstanding under the conditions and restrictions hereinafter set forth, and to pay all other amounts required to be paid therefrom pursuant to said Sec. 9-121. Computations for such monthly payments into the Sewage Works Sinking Fund shall be made as of November 1 of each year and the amounts to be so set aside monthly and paid into said Sewage Works Sinking Fund shall be not less than:

(i) one-sixth (1/6) of the amount of interest becoming due on the next succeeding interest payment date, plus

(ii) one-twelfth (1/12) of the amount of principal becoming due on the next succeeding November 1, plus

(iii) one-twelfth (1/12) of all paying agents' fees and charges anticipated to become due in the next succeeding twelve (12) month period.

All money in the Sewage Works Sinking Fund shall be held and invested as provided in Sec. 9-123 hereof as a fund separate and apart from all other City funds.

c. After making the payments into the funds as prescribed in the preceding paragraphs, if there are revenues and income of the sewer system in excess of the amount estimated to be in like manner transferred and paid into said special funds during the succeeding twelve (12) months, there shall then be set apart and paid into the Sewage Works Improvement Fund in accordance with Sec. 9-121 hereof such excess revenues, which shall be used solely to pay costs of improvements, repairs, additions and extensions of the sewer system. Said fund shall be held and invested as provided in Sec. 9-1239 hereof, and all accumulations in said fund shall be kept separate and apart from all other funds of the City. (Gen. Ord. No. 4, 1988, § 11, 4-19-88)

**Sec. 9-121 Designation of Operation and Maintenance Fund and Application of Monies Therein; Continuation of Sewage Works Sinking Fund; Establishment of Debt Service Account and Reserve Account Therein.**

a. The special fund created under the 1961 Ordinance from which the necessary and reasonable current expenses of operating and maintaining the sewage system for the then current month is designated the "*Operation and Maintenance Fund*." The Operation and Maintenance Fund shall be continued until all of the bonds and any parity bonds have been paid in full. Moneys set aside and paid into the Operation and Maintenance Fund shall be used to pay the current expenses of operation, maintenance and repair of the sewage system and, except as otherwise provided in this Article, for no other purposes, such operation, maintenance and repair to include, among other things, all ordinary and usual expenses for such purposes (which may include expenses not annually recurring), premiums for insurance, all engineering expenses relating to such operation, maintenance and repair and any other expenses permitted under the 1961 Ordinance, the 1978 Ordinance and this Article or by law, including particularly I.C. § 36-9-23.

b. The special fund designated "*Sewage Works Sinking Fund*" created by the 1961 Ordinance and continued pursuant to the 1978 Ordinance as the fund for the payment of all bonds which by their terms are payable from the net revenues of the sewage system of the City, is designated as the special fund for the payment of the principal of and interest on the bonds authorized by this Article and the other parity bonds and the payment of any amounts authorized pursuant to said 1961 Ordinance and the 1978 Ordinance. The Sewage Works Sinking Fund shall be continued until all of the bonds issued under the 1961 Ordinance, the 1978 Ordinance, and this Article have been paid in full. Except as otherwise provided herein, monies shall be set aside and paid into said Sewage Works Sinking Fund as provided in Section 10 of the 1961 Ordinance, Section 9 of the 1978 Ordinance and this Sec. 9-121.

There shall be set aside and paid into said Sinking Fund monthly as available, or as necessary, a sufficient amount of the net revenues of the sewer system for the payment of:

- (1) the interest on all bonds payable from said Sinking Fund as such interest shall become due,
- (2) the necessary fiscal agency charges for paying said bonds and interest,

(3) the principal of all bonds payable from said Sinking Fund as such principal shall become due, and

(4) an additional amount as a margin of safety and for the payment of premiums upon bonds redeemed by call or purchase, which margin, together with any unused surplus of such margin carried forward from the preceding year, shall equal not less than fifteen percent (15%) of all other amounts so required to be paid into said Sinking Fund. The bonds issued pursuant to the 1961 Ordinance and the 1978 Ordinance and the bonds authorized by this Article shall be of equal priority in respect to the payment of interest and principal from the moneys in said Sewage Works Sinking Fund. The monthly payments into said Sinking Fund shall be in an amount equal to at least one twelfth (1/12) of the amount required for such payments during the then next succeeding twelve (12) calendar months and shall continue until such time as said fund shall contain an amount sufficient to pay all of the herein authorized bonds then outstanding, together with the interest thereon to the dates of maturity thereof. In addition to said required monthly payments into the Sewage Works Sinking Fund, all of the net revenues of the sewage system not used in making said required sinking fund payments shall be set aside and paid into said Sinking Fund monthly, as available, until there has been accumulated in said Sewage Works Sinking Fund, over and above said required payments, as an additional reserve, an amount equal to the sum of the principal of and interest on all then outstanding bonds which will be payable during the then next succeeding twelve (12) calendar months. Thereafter, said reserve fund shall be maintained at such level, and additional amounts of net revenues shall be deposited in said fund from time to time to the extent necessary to maintain such level.

c. There is created within the Sewage Works Sinking Fund, a *Debt Service Account* and a *Reserve Account*. Monies set aside to pay principal and interest on the bonds shall be credited to the Debt Service Account. Monies set aside to pay necessary fiscal agency charges, monies set aside as a margin of safety and to pay premiums upon bonds called for redemption and monies set aside as an additional reserve in an amount equal to the sum of the principal and interest on the bonds payable during the next succeeding twelve (12) calendar months, all as provided in the next succeeding paragraph, shall be credited to the Reserve Account. Anything herein to the contrary notwithstanding, no further deposits to the credit of the Reserve Account shall be required after there has been accumulated therein the amounts equal to the margin of safety and the additional reserve referred to in this Sec. 9-121.

In no event shall any part of the Sewage Works Sinking Fund be used in calling bonds for redemption prior to maturity, except to the extent that the amount then in said Sinking Fund exceeds the amount required to pay the principal of the bonds payable therefrom which will mature within a period of twelve (12) calendar months next following the date of such redemption, together with all interest on the bonds payable in said period. Any such excess of funds above said required level may also be used in purchasing outstanding bonds at a price less than the then applicable redemption price, if first approved by the Board. Monies in the Sewage Works Sinking Fund shall not be used for any other purpose whatsoever except as provided in this Article. (Gen. Ord. No. 4, 1988, § 12, 4-19-88)

**Sec. 9-122 Application of Surplus Revenues; Sewage Works Improvement Fund.**

In the event all required payments into the Sewage Works Sinking Fund have been met to date and there has been accumulated the additional reserve in the Sewage Works Sinking Fund required pursuant to Sec. 9-121 hereof equal to the sum of the principal and interest on the then outstanding bonds which will be payable during the then next succeeding twelve (12) calendar months, and there has been accumulated funds in the Operation and Maintenance Fund sufficient for operation, repair, and maintenance of the sewer system for the then next succeeding twelve (12) calendar months, and for depreciation, then any excess revenues of the sewer system may be placed in the Sewage Works Improvement Fund and used to pay costs of improvements, betterments, extensions, enlargements, and additions to the sewer system. No revenues of the sewer system shall be deposited in or credited to the Sewage Works Improvement Fund which will interfere with the requirements of the Sewage Works Sinking Fund, the accumulation of the required reserves therein, or with the requirements as to reserving funds in the Operation and Maintenance Fund for the operation, maintenance, and repair of the sewer system, and for depreciation. All or any portion of the moneys accumulated in the Operation and Maintenance Fund for the next succeeding twelve (12) calendar months shall be transferred to the Sewage Works Sinking Fund if necessary to prevent a default in the payment of principal of or interest on the bonds payable from said Sinking Fund. If any money is so transferred, such revenue shall be replenished to the required maximum amount by monthly payments equal to one twenty-fourth (1/24) of the amount required to so replenish the reserve. (Gen. Ord. No. 4, 1988, § 13, 4-19-88)

**Sec. 9-123 Sanitary District.**<sup>16</sup>

**Sec. 9-124 through Sec. 9-129 Reserved for Future Use.**

## **ARTICLE 7. ILLICIT CONNECTIONS AND DISCHARGE REGULATION.**<sup>17</sup>

**Sec. 9-130 Purpose/Intent.**

The purpose of this Article is to provide for the health, safety, and general welfare of the citizens of the City of Terre Haute, Indiana through the regulation of non-storm water discharges to the storm drainage system to the maximum extent practicable as required by federal and state law. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

- a. To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by storm water discharges by any user;
- b. To prohibit illicit connections and discharges to the municipal separate storm sewer system; and

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<sup>16</sup> Editor's Note: I.C. § 36-9-25-1 through I.C. § 36-9-25-39, address sanitation districts in cities which adopt the state law by proper ordinance.

<sup>17</sup> Editor's Note: General Ordinance No, 2, 2008, passed by the Common Council on May 8, 2008, created Article 7. Illicit Connections and Discharge Regulations.

c. To establish legal authority to carry out all inspections, surveillance and monitoring procedures necessary to ensure compliance with this Article.

**Sec. 9-131 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Article:

a. **Authorized Enforcement Agency.** The City of Terre Haute, Indiana Wastewater Treatment Superintendent (MS4 Operator) his employees or designees.

b. **Best Management Practices (BMPs).** Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention, and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving waters, or storm water conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

c. **Clean Water Act.** The Federal Water Pollution Control Act (33 *U.S.C.* § 1251 *et seq.*) and any subsequent amendments thereto.

d. **Construction Activity.** Activities subject to NPDES Construction Permits. These include construction projects resulting in land disturbance of one (1) acre or more, as defined in 327 *IAC* 15-5. Such activities include but are not limited to clearing and grubbing, grading, excavating, and demolition. This term does not include routine ditch or road maintenance or minor landscaping projects.

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

f. **Illegal Discharge.** Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in Section 9-135 of this Article.

g. **Illicit Connections.** An illicit connection is defined as either of the following:

1. Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including but not limited to any conveyances which allow any non-storm water discharge including sewage, process wastewater, and wash water to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted, or approved by an Authorized Enforcement Agency; or

2. Any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps, or equivalent records and approved by the Authorized Enforcement Agency.

h. **Industrial Activity.** Activities subject to NPDES Industrial Storm Water Permits as defined in 327 IAC 15-6.

i. **Municipal Separate Storm Sewer System (MS4).** The system of conveyances (including sidewalks, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City of Terre Haute and designed or used for collecting or conveying storm water, and that is not used for collecting or conveying sewage.

j. **National Pollutant Discharge Elimination System (NPDES) Storm Water Discharge Permit.** A permit issued by the EPA (or by a state under authority delegated pursuant to 33 U.S.C. § 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable to an individual, group, or general area-wide basis.

k. **Non-Storm Water Discharge.** Any discharge to the storm drain system that is not composed entirely of storm water.

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

m. **Pollutant.** Any substance which causes or contributes to pollution or causes an alteration of the quality of the waters of the United States. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; residues that result from constructing a building or structure; and noxious or offensive matter of any kind.

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

o. **Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

p. **Storm Water.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

q. **Storm Water Pollution Prevention Plan.** A document which describes Best Management Practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters to the Maximum Extent Practicable.

r. **Wastewater.** Any water or other liquid, other than uncontaminated storm water, discharged from a facility.

#### **Sec. 9-132 Applicability.**

This Article shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by the Authorized Enforcement Agency.

#### **Sec. 9-133 Responsibility for Administration.**

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the City of Terre Haute, through the Board of Public Works and Safety, to persons or entities in the beneficial interest of or in the employ of the City.

#### **Sec. 9-134 Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this Article imposes requirements which are more protective of human health or environment than those set forth elsewhere, the provisions of this Article shall prevail. Approvals and permits granted under this Article are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance with all applicable federal, state and local laws and regulations shall be required, including rules promulgated under authority of this Article.

#### **Sec. 9-135 Discharge Prohibitions.**

a. Prohibition of Illegal Discharges. No person shall throw, drain, or otherwise discharge, cause, or allow others under its control to throw, drain, or otherwise discharge into the municipal storm drain system or watercourses any materials, including but not limited to pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than storm water.

The commencement, conduct or continuance of any illegal discharge to the storm drain system is prohibited except as described as follows:

1. The following discharges are exempt from discharge prohibitions established by this Article: water line flushing or other potable water sources, landscaping irrigation or lawn watering, diverted stream flows, rising ground water, ground water infiltration to storm drains, uncontaminated pumped ground water, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, non-commercial washing of vehicles, natural riparian habitat or wet-land flows, swimming pools (if dechlorinated – typically less than one part per million chlorine), fire fighting activities, irrigation water, street wash water, and any other water source not containing pollutants.

2. Discharges or flow from firefighting and other discharges specified in writing by the Authorized Enforcement Agency as being necessary to protect public health and safety.

3. Dye testing is an allowable discharge, but requires a verbal notification to the Authorized Enforcement Agency prior to the time of the test.

4. The prohibition shall not apply to any non-storm water discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the United States Environmental Protection Agency or the Indiana Department of Environmental Management, provided that the discharger is in full compliance with all requirements of the permit, waiver or order and other applicable laws and regulations, and provided that written approval has been granted for any discharge to the storm drain system.

b. Prohibition of Illicit Connections.

1. The construction, use, maintenance, or continued existence of illicit connections to the storm drain system is prohibited.

2. This prohibition expressly includes, without limitation, illicit connections made in the past, regardless of whether the connection is permissible under law or practices applicable or prevailing at the time of the connection.

3. A person is considered to be in violation of this Article if the person connects a line conveying sewage to the MS4, or allows such a connection to continue.

4. Improper connections in violation of this Article must be disconnected and redirected, as necessary, to an approved onsite wastewater management system or the sanitary sewer system upon approval of the Authorized Enforcement Agency.

5. Any drain or conveyance that has not been documented in plans, maps or equivalent, and which may be connected to the storm sewer system, shall be located by the owner or occupant of that property upon receipt of written notice of violation from the Authorized Enforcement Agency requiring that such locating be completed. Such notice shall specify a reasonable time period within which the location of the drain or conveyance is to be determined, that the drain or conveyance be identified as storm sewer, sanitary sewer or other, and that the outfall location or point of connection to the storm sewer system, sanitary sewer

system or other discharge point be identified. Results of these investigations are to be documented and provided to the Authorized Enforcement Agency.

**Sec. 9-136 Suspension of MS4 Access.**

a. Suspension Due to Illicit Discharges in Emergency Situations. The Authorized Enforcement Agency may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.

b. Suspension Due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this Article may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The Authorized Enforcement Agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the Authorized Enforcement Agency for a reconsideration and hearing.

A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this Section, without the prior approval of the Authorized Enforcement Agency.

c. Emergency Cease and Desist Orders. When the Authorized Enforcement Agency finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, or that the person's past violations are likely to recur, and that the person's violation(s) has/have caused or contributed to an actual or threatened discharge to the MS4 or waters of the United States which reasonably appears to present an imminent or substantial endangerment to the health or welfare of persons or to the environment, the Authorized Enforcement Agency may issue an order to the violator directing it immediately to cease and desist all such violations and directing the violator to:

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

Any person notified of an emergency order directed to it under this Subsection shall immediately comply and stop or eliminate its endangering discharge. In the event of a discharger's failure to immediately comply voluntarily with the emergency order, the Authorized Enforcement Agency may take such steps as deemed necessary to prevent or minimize harm to the MS4 or waters of the United States, and/or endangerment to persons or to the environment, including immediate termination of a facility's water supply, sewer connection, or other municipal utility services. The Authorized Enforcement Agency may allow the person to recommence its discharge when it has demonstrated to the satisfaction of the Authorized

Enforcement Agency that the period of endangerment has passed, unless further termination proceedings are initiated against the discharger under this Article. A person that is responsible, in whole or in part, for any discharge presenting imminent danger shall submit a detailed written statement, describing the causes of the harmful discharge and the measures taken to prevent any future occurrence, to the Authorized Enforcement Agency within five (5) days of receipt of the emergency order. Issuance of an emergency cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the violator.

**Sec. 9-137 Industrial or Construction Activity Discharges: Submission of NOI.**

a. Any person subject to an industrial or construction activity NPDES storm water discharge permit shall comply with all provisions of such permit. Proof of compliance with said permit may be required in a form acceptable to the Authorized Enforcement Agency prior to the allowing of discharges to the MS4.

b. The operator of a facility, including construction sites, required to have an NPDES permit to discharge storm water associated with construction or industrial activity shall submit a copy of the Notice of Intent (NOI) to the Authorized Enforcement Agency at the same time the operator submits the original Notice of Intent to the IDEM as applicable.

c. The copy of the Notice of Intent may be delivered to the Authorized Enforcement Agency either in person or by mailing it to:

City of Terre Haute Wastewater Utility  
Re: Notice of Intent to Discharge Storm Water  
3200 State Road 63  
Terre Haute, IN 47802

d. A person commits an offense if the person operates a facility that is discharging storm water associated with industrial or construction activity without having submitted a copy of the Notice of Intent to do so to the Authorized Enforcement Agency.

**Sec. 9-138 Monitoring of Discharges.**

a. Applicability. This Section applies to all facilities that have storm water discharges associated with industrial activity, including construction activity.

b. Access to Facilities.

1. The Authorized Enforcement Agency shall be permitted to enter and inspect facilities subject to regulation under this Article as often as may be necessary to determine compliance with this Article. If a discharger has security measures in force, which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to representatives of the Authorized Enforcement Agency.

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

3. The Authorized Enforcement Agency shall have the right to set up on any permitted facility such devices as are necessary in the opinion of the Authorized Enforcement Agency to conduct monitoring and/or sampling of the facility's storm water discharge.

4. The Authorized Enforcement Agency has the right to require the discharger 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 discharger at its own expense. All devices used to measure storm water flow and quality shall be calibrated to ensure their accuracy.

5. 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 operator at the written or oral request of the Authorized Enforcement Agency and shall not be replaced. The costs of clearing such access shall be borne by the operator.

6. Unreasonable delays in allowing the Authorized Enforcement Agency access to a permitted facility is a violation of a storm water discharge permit and of this Article. A person who is the operator of a facility with a NPDES permit to discharge storm water associated with industrial activity commits an offense if the person denies the Authorized Enforcement Agency reasonable access to the permitted facility for the purpose of conducting any activity authorized or required by this Article.

7. If the Authorized Enforcement Agency has been refused access to any part of the premises from which the storm water is discharged, and he/she is able to demonstrate probable cause to believe that there may be a violation of this Article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this Article or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community or the environment, then the Authorized Enforcement Agency may seek issuance of a search warrant from any court of competent jurisdiction.

**Sec. 9-139 Requirement To Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.**

The Authorized Enforcement Agency shall establish requirements identifying Best Management Practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or

may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a storm water pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

#### **Sec. 9-140 Watercourse Protection.**

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

#### **Sec. 9-141 Notification of Spills.**

Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation has information of any known or suspected release of materials which are resulting or may result in illegal discharges or pollutants discharging into storm water, the storm drain system, or water of the United States, said person shall take all necessary steps to ensure the discovery, containment, and cleanup of such release. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Authorized Enforcement Agency in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Authorized Enforcement Agency within three (3) business days of the phone notice. If the discharge of prohibited materials emanates from a commercial or industrial establishment, the owner or operator of such establishment shall also retain an on-site written record of the discharge and the actions taken to prevent its recurrence. Such records shall be retained for at least three (3) years.

#### **Sec. 9-142 Violations and Enforcement.**

a. Violations. It shall be a violation for any person to violate any provision or fail to comply with any of the requirements of this Article. Any person who has violated or continues to violate the provisions of this Article may be subject to the enforcement actions outlined in this Article or may be restrained by injunction or otherwise abated in a manner provided by law. In the event the violation constitutes an immediate danger to public health or public safety, the Authorized Enforcement Agency is authorized to enter upon the subject private property, without giving prior notice, to take any and all measures necessary to abate the violation and/or restore the property. The Authorized Enforcement Agency is authorized to seek costs of the abatement as outlined in Sec. 9-145.

b. Warning Notice. When the Authorized Enforcement Agency finds that any person has violated, or continues to violate, any provision of this Article, or any order issued hereunder, the Authorized Enforcement Agency may serve upon that person a written Warning Notice. Such Warning Notice shall specify the particular violation believed to have occurred and requesting the discharger to immediately investigate the matter and to seek a resolution whereby any offending discharge will cease. Investigation and/or resolution of the matter in response to the Warning Notice in no way relieves the alleged violator of liability for any violations occurring before or after receipt of the Warning Notice. Nothing in this subsection shall limit the authority of the Authorized Enforcement Agency to take any action, including emergency action or any other enforcement action, without issuing a Warning Notice.

c. Notice of Violation. Whenever the Authorized Enforcement Agency finds that a person has violated a prohibition or failed to meet a requirement of this Article, the Authorized Enforcement Agency may order compliance by written Notice of Violation to the responsible person. Emergency notifications may be made by an authorized employee. The Notice of Violation shall contain:

1. The name and address of the alleged violator;
2. The address, when available, or description of the building, structure or land upon which the violation is occurring, or has occurred;
3. A statement specifying the nature of the violation;
4. A description of the remedial measures necessary to restore compliance with this Article and a time schedule for the completion of such remedial action;
5. A statement of the penalty or penalties that shall or may be assessed against the person to whom the notice of violation is directed;
6. A statement that the determination of violation may be appealed to the Authorized Enforcement Agency by filing a written notice of appeal within five (5) days of service of notice of violation; and
7. A statement specifying that, should the violator fail to restore compliance within the established time schedule, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

Such notice may require without limitation:

1. The performance of monitoring, analyses, and reporting;
2. The elimination of illicit connections or discharges;
3. That violating discharges, practices or operations shall cease and desist;

4. The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;

5. Payment of a fine to cover administrative and remediation costs; and

6. The implementation of source control or treatment BMPs.

d. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

**Sec. 9-143 Appeal of Notice of Violation.**

Any person receiving a Notice of Violation may appeal the determination before the Board of Public Works and Safety. The notice of appeal must be received within five (5) days from the date of the Notice of Violation. Hearing on the appeal before the Board of Public Works and Safety shall take place within fifteen (15) days from the date of receipt of the notice of appeal. The decision of the Board of Public Works and Safety shall be final.

**Sec. 9-144 Enforcement Measures After Appeal.**

If the violation has not been corrected pursuant to the requirements set forth in the Notice of Violation, or, in the event of an appeal, within five (5) days of the decision of the Board of Public Works and Safety, the representatives of the Authorized Enforcement Agency shall enter upon the subject private property and are authorized to take any and all measures necessary to abate the violation and/or restore the property. It shall be unlawful for any person, owner, agency or person in possession of any premises to refuse to allow the governmental agency or designated contractor to enter upon the premises for the purposes set forth above.

**Sec. 9-145 Cost of Abatement of the Violation.**

Within thirty (30) days after abatement of the violation, the owner of the property will be notified of the cost of the abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the Board of Public Works and Safety or by the expiration of the time in which to file an appeal, the charges shall become a special assessment against the property and shall constitute a lien on the property for the amount of the assessment.

**Sec. 9-146 Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Authorized Enforcement Agency may petition for a preliminary or permanent

injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

**Sec. 9-147 Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Authorized Enforcement Agency may impose upon a violator alternative compensatory actions, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

**Sec. 9-148 Violations Deemed a Public Nuisance.**

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to the environment or public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Sec. 9-149 Civil Penalty.**

Any person that has violated or continues to violate the provisions of this Article shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) per violation per day.

The Authorized Enforcement Agency may recover all attorney's fees, court costs, consultant costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

**Sec. 9-150 Criminal Prosecution.**

Any person that has violated or continues to violate this Article shall be liable to criminal prosecution to the fullest extent of the law, and shall be subject to applicable criminal penalties per violation per day and/or imprisonment as provided by law. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

**Sec. 9-151 Remedies Not Exclusive.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state, or local law. It is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.

**ARTICLE 8. CONSTRUCTION SITE AND POST-CONSTRUCTION  
SITE STORM WATER CONTROL.<sup>18</sup>**

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<sup>18</sup> Editor's Note: Article 8. General Ordinance No, 3, 2008, passed by the Common Council on May 8, 2008, created Article 8. Construction Site and Post-Construction Site Storm Water Control.

**Sec. 9-160 Purpose/Intent.**

a. Site Construction Control. The purpose of this Article is to establish requirements for storm water discharges from construction activities of one (1) acre or more so that the public health, existing water uses, and aquatic biota are protected. This Article establishes methods for controlling the introduction of pollutants into the municipal separate storm sewer system (MS4) in order to comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) permit process. The objectives of this Article are:

1. To regulate construction activities disturbing more than one (1) acre of land as governed by 327 IAC 15-5; and
2. To require construction site operators to develop and implement a Construction Plan including a Storm Water Pollution Prevention Plan in order to receive a Land Disturbance Permit from the City.
3. Minimize increases in storm water runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels.
4. Minimize increases in nonpoint source pollution caused by storm water runoff from development which would otherwise degrade local water quality.
5. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable.
6. Reduce storm water runoff rates and volumes, soil erosion, and nonpoint source pollution, wherever possible, through storm water management controls and to ensure that these management controls are properly maintained and pose no threat to public safety.

b. Post-Construction Control. The purpose of this Article is to implement planning procedures that promote and improve water quality. The planning procedures shall include, at a minimum, the post-construction requirements of 327 IAC 5-5-6.5(a)(8). The City may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants in storm water run-off. Where appropriate, and to the extent of the MS4 operator's authority, the planning procedures may also include the following:

1. Buffer strip and riparian zone preservation;
2. Filter strip creation;
3. Minimization of land disturbance and surface imperviousness;
4. Minimization of directly connected impervious areas;
5. Maximization of open space; and

6. Direct the community's growth away from sensitive areas and towards areas that can support the growth without compromising water quality.

**Sec. 9-161 Definitions.**

The following definitions shall apply in the interpretation and enforcement of this Article. Additional definitions for terms contained within this Article are provided at Sec. 9-131.

a. **Authorized Enforcement Agency.** The City of Terre Haute, Indiana Wastewater Treatment Superintendent (MS4 Operator) his employees or designees.

b. **Construction Plan.** A representation of a project site and all activities associated with the project including a Storm Water Pollution Prevention Plan. The plan includes the location of the project site, buildings and other infrastructure, grading activities, schedules for implementation, and other pertinent information related to the project site. A Storm Water Pollution Prevention Plan is a part of the Construction Plan.

c. **Construction Site Access.** A stabilized stone surface at all points of ingress or egress to a project site for the purpose of capturing and detaining sediment carried by tires of vehicles or other equipment entering or exiting the project site.

d. **Contractor and or Subcontractor.** An individual or company hired by the project site or individual lot owner, their agent, or the individual lot operator to perform services in the project site.

e. **Developer.** Any person financially responsible for construction activity; or an owner of property who sells or leases, or offers for sale or lease any lots in a subdivision.

f. **Erosion.** Detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.

g. **Erosion Control.** Any measure that prevents erosion.

h. **Grading.** The cutting and filling of the land surface to a desired slope or elevation.

i. **Impervious Surface.** Surfaces, such as pavement and rooftops, that prevent the infiltration of storm water into the soil.

j. **Indiana Storm Water Quality Manual.** A reference manual developed by the State of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural storm water management practices.

k. **Land Disturbance or Land Disturbing Activity.** Any man-made change of the land surface, including removing vegetative cover that exposes the underlying soil, excavating, filling, transporting, and grading.

l. **Measurable Storm Event.** A precipitation event that results in a total measured precipitation accumulation equal to or greater than, one-half inch (0.5") of rainfall.

m. **Project Site.** The entire area on which construction activity is to be performed.

n. **Project Site Owner.** A person required to submit the NOI and NOT letters to the Authorized Enforcement Agency and IDEM and is required to comply with the provisions of this Article, including either of the following:

1. A developer; or

2. A person who has financial and operational control of construction activities and project plans and specifications, including the ability to make modifications to those plans and specifications.

o. **Sediment.** Solid material (both mineral and organic) that is in suspension, is being transported, or has been moved from its place of origin by air, water, gravity, or ice and has come to rest on the earth's surface.

p. **Sediment Control.** Measures that prevent sediment from leaving a project site.

q. **Storm Drainage System.** Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs, and other drainage structures.

r. **Subdivision.** Any land that is divided or proposed to be divided into lots, whether contiguous or subject to zoning requirements, for the purpose of sale or lease as part of a larger common plan of development or sale.

s. **Technical Review and Comment Form.** A form issued by the Authorized Enforcement Agency stating that the Storm Water Pollution Prevention Plan (SWPPP) is adequate or stating revisions needed in the SWPPP.

u. **Trained Individual.** An individual who is trained and experienced in the principles of storm water quality, including erosion and sediment control as may be demonstrated by state registration, professional certification, experience, or completion of coursework that enable the individual to make judgments regarding storm water control or treatment and monitoring.

**Sec. 9-162 Applicability.**

a. This Article covers any new development or re-development construction site resulting in the disturbance of one (1) acre or more of total land area. Persons must meet the general permit rule applicability requirements under 327 IAC 15-2-3. This Article also applies to disturbances of less than one (1) acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one (1) or more acres of land within the corporate limits of the City.

b. All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of Construction Plans.

c. This Article does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.

d. This Article does not apply to the Indiana Department of Transportation when it conducts its business within the City's corporate limits under its NPDES permit under 327 IAC 15.

e. This Article does not apply to the following types of activities:

1. Agricultural land disturbance activities;
2. Forest harvesting activities.

f. This Article does not apply to the following activities, provided other applicable permits contain provisions requiring immediate implementation of soil erosion control measures:

1. Landfills that have been issued a certification of closure under 329 IAC 10.
2. Coal mining activities permitted under I.C. § 14-34.
3. Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the Indiana Department of Environmental Management under 329 IAC 10 that contains equivalent storm water requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

#### **Sec. 9-163 Responsibility for Administration.**

The Authorized Enforcement Agency shall administer, implement, and enforce the provisions of this Article. Any powers granted or duties imposed upon the Authorized Enforcement Agency may be delegated in writing by the City through the Board of Public Works and Safety to persons or entities in the beneficial interest of or in the employ of the City.

#### **Sec. 9-164 Ultimate Responsibility.**

The standards set forth herein and promulgated pursuant to this Article are minimum standards; therefore, this Article does not replace, repeal, abrogate, supersede or affect any other more stringent requirements, rules, regulations, covenants, standards, or restrictions. Where this Article imposes requirements which are more protective of human health or environment than those set forth elsewhere, the provisions of this Article shall prevail. Approvals and permits granted under this Article are not waivers of the requirements of any other laws, nor do they indicate compliance with any other laws. Compliance with all applicable federal, state and local laws and regulations shall be required, including rules promulgated under authority of this Article.

**Sec. 9-165 Responsibility of Construction Site Owner.**

- a. The project site owner has the following responsibilities:
  1. Ensure that, prior to the initiation of any land disturbing activities, a sufficient Construction Plan is completed and submitted to the Authorized Enforcement Agency and approved by the Authorized Enforcement Agency as discussed in Sec. 9-166 of this Article.
  2. Complete and submit to the Authorized Enforcement Agency and the Indiana Department of Environmental Management (IDEM) a sufficient Notice of Intent (NOI) letter and notification from Authorized Enforcement Agency indicating the Construction Plans are sufficient to comply with the requirements of 327 IAC 15-5-5.
  3. Make application for a Land Disturbance Permit and any other permits required by the City in accordance with procedures established by the City.
  4. Ensure compliance with this Article during:
    - (a) the construction activity; and
    - (b) implementation of the Construction Plan.
  5. Ensure that all persons engaging in construction activities on a permitted project site comply with the applicable requirements of this Article and the approved Construction Plan.
  6. Provide the Authorized Enforcement Agency and IDEM with a sufficient Notice of Termination (NOT) letter, in compliance with the requirements of 327 IAC 15-5-8.
- b. For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.
- c. For an individual lot where land disturbance is expected to be one (1) acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:

1. Ensure that, prior to the commencement of any land disturbing activity, a sufficient Construction Plan is completed and submitted to and approved by the Authorized Enforcement Agency;
2. Complete his or her own Notice of Intent (NOI) letter and submit it to the Authorized Enforcement Agency and IDEM;
3. Apply for a Land Disturbance Permit and any other permits required by the City in accordance with the procedures established by the City.
  - d. For an individual lot where the land disturbance is less than one (1) acre and the lot lies within a project site permitted under this rule, submittal of a Notice of Intent (NOI) letter and Construction Plan shall not be required. The individual lot operator shall:
    1. Comply with the provisions and requirements of the plan developed by the project site owner in accordance with the procedures established by the City;
    2. Comply with the provisions set forth in Sec. 9-168 of this Article; and
    3. Apply for a Land Disturbance Permit and any other permits required by the City in accordance with the procedures established by the City.

**Sec. 9-166 Construction Plan Submittal, Review and Approval.**

- a. A complete Storm Water Pollution Prevention Plan and erosion and sediment control plan shall be submitted to the Authorized Enforcement Agency for approval. At the time of submittal, the date and time will be recorded.
- b. The sufficiency of the Construction Plan shall be based upon Rule 5 regulations and the design criteria described in the current City of Terre Haute Construction Standards and Specifications, as revised and amended from time to time.
- c. Each applicant shall bear the name(s) and address(es) of the owner or developer of the project site, and of any consulting firm retained by the applicant together with the name of the applicant's principal contact at such firm.
- d. Each application shall include a statement that any land clearing, construction or development involving the movement of earth shall be in accordance with the Storm Water Pollution Prevention Plan. The Authorized Enforcement Agency will review each application for a Rule 5 permit to determine its conformance with the provisions of this regulation and Rule 5. Within twenty-eight (28) days after receiving an application, the Authorized Enforcement Agency shall, in writing:
  1. Approve the erosion and sediment control plan and SWPPP subject to such reasonable conditions as may be necessary to secure substantially the objectives of this

regulation, and issue the Technical Review and Comment Form stating that the “Plan is Adequate”;

2. Provide a Technical Review and Comment Form stating that the “Plan is Deficient” and indicating the reason(s) and procedure for submitting a revised application and/or submission.

e. The Technical Review and Comment Form from the Authorized Enforcement Agency stating that the “Plan is Adequate” and a Land Disturbance Permit shall be obtained prior to the initiation of any land disturbing activities.

f. Failure of the Authorized Enforcement Agency to act on an original or revised application within twenty-eight (28) days of receipt shall authorize the applicant to proceed in accordance with the plans as filed unless such time is extended by written agreement between the applicant and the Authorized Enforcement Agency.

g. After receiving a Technical Review and Comment Form stating that the “Plan is Adequate”, if revisions to the Construction Plan require a change in measures appropriate to control the quality or quantity of storm water runoff, then revised plans must be submitted to the Authorized Enforcement Agency and receive the approval of the Authorized Enforcement Agency prior to implementation of the modified plan.

h. The applicant shall apply for and receive a Land Disturbance Permit from the Authorized Enforcement Agency and file a performance bond, letter of credit or other improvement surety in an amount deemed sufficient by the City. The surety shall, at a minimum, cover all costs of improvements, the repair of improvements, landscaping maintenance and inspection costs.

i. After receiving a Technical Review and Comment Form stating that the “Plan is Adequate” from the Authorized Enforcement Agency, and the Land Disturbance Permit as well as any other permits required by the City, and at least forty-eight (48) hours prior to the start of construction, the following shall be submitted to the Authorized Enforcement Agency and IDEM:

1. Notice of Intent (NOI) Form;
2. A copy of the Technical Review and Comment Form stating that the “Plan is Adequate”; and
3. Proof of Publication as required by 327 IAC 15-5-5(9).

j. The project site owner must submit a Notice of Termination (NOT) letter to IDEM and transmit a copy of the NOT letter to the Authorized Enforcement Agency when all land disturbing activities have been completed, the entire project site has been stabilized and all temporary erosion and sediment control measures have been removed.

k. Upon receipt of the NOT, the Authorized Enforcement Agency shall make a final inspection of the site. Upon satisfaction that all conditions have been addressed the project site owner shall submit a written Surety Release Request to the City.

**Sec. 9-167 General Requirements for Storm Water Quality Control.**

All storm water quality measures and erosion and sediment controls necessary to comply with this Article must be implemented in accordance with the Construction Plan and be sufficient to satisfy the following requirements:

a. Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.

b. Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.

c. A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.

d. Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is consistent with all applicable statutes and regulations.

e. Storm water run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.

f. The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information.

1. A copy of the completed NOI letter and the NPDES permit number, where applicable.

2. A copy of the Land Disturbance Permit issued by the City.

3. Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person.

4. Location of the Construction Plan if the project site does not have an on-site location to store the plan.

g. The NPDES permit and posting of the notice under Subsection (f) does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.

h. The Storm Water Pollution Prevention Plan shall serve as a guideline for storm water quality, but should not be interpreted to be the only basis for implementation of storm water quality measures for a project site. The project site owner is responsible for implementing, in accordance with this Article, all measures necessary to adequately prevent polluted storm water run-off.

i. The project owner shall inform all general contractors, construction management firms, land disturbance or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this Article and the conditions and standards of the Storm Water Pollution Prevention Plan and the schedule for proposed implementation.

j. Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.

k. Appropriate measures shall be planned and installed as part of an erosion and sediment control system.

l. All storm water quality measures must be designed and installed under the guidance of a trained individual.

m. Collected run-off leaving a project site must be either discharged directly to a combined sewer, storm sewer, a well-defined stable receiving channel, or a natural outlet approved by the Authorized Enforcement Agency, or diffused and released to adjacent property without creating a nuisance or causing an erosion, sedimentation or pollutant problem to the adjacent property owner.

n. Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.

o. Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with storm water run-off.

p. Unvegetated areas that are scheduled or likely to be left inactive for fifteen (15) days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent (70%) shall be re-stabilized using appropriate methods to minimize the erosion potential.

q. During the period of construction activities, all storm water quality measures necessary to meet the requirements of this rule shall be maintained in working order.

r. A self-monitoring program that includes the following must be implemented:

1. A trained individual shall perform a written evaluation of the project site:

- (a) by the end of the next business day following each 0.5 inch of rain; and
- (b) at a minimum of one (1) time per week.

2. The evaluation must:

- (a) address the maintenance of existing storm water quality measures to ensure they are functioning properly; and
- (b) identify additional measures necessary to remain in compliance with all applicable laws and ordinances; and
- (c) be made available to the Authorized Enforcement Agency and IDEM within forty-eight (48) hours of a request.

3. Written evaluation reports must include:

- (a) the name of the individual performing the evaluation;
- (b) the date of the evaluation;
- (c) problems identified at the project site;
- (d) details of corrective actions recommended and completed;
- (e) All evaluation reports for the project site must be made available to the Authorized Enforcement Agency within forty-eight (48) hours of a request.

s. Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.

t. Final stabilization of a project site is achieved when:

1. all land disturbance activities have been completed and a uniform, evenly distributed perennial vegetative cover with a density of seventy percent (70%) without large bare

areas has been established on all unpaved areas and areas not covered by permanent structures, or equivalent permanent stabilization measures have been employed; and

2. construction projects on land used for agricultural purposes are returned to their preconstruction agricultural uses or disturbed areas, not previously used for agricultural production, such as filter strips and areas that are not being returned to their preconstruction agricultural use, meet the final stabilization requirements in Subsection 1 above.

**Sec. 9-168 General Requirements for Individual Building Lots within a Permitted Project.**

All storm water quality measures, including erosion and sediment control, necessary to comply with this Article must be implemented in accordance with the Construction Plan and be sufficient to satisfy the following requirements:

Provisions for erosion and sediment control on individual building lots regulated under the original permit of a project site owner must include the following requirements:

a. The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.

b. Installation and maintenance of a stable construction site access.

c. Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.

d. Sediment discharge and tracking from each lot must be minimized throughout the land disturbance activities on the lot until permanent stabilization has been achieved.

e. Clean-up of sediment that is either tracked or washed onto road. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.

f. Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.

g. For individual residential lots, final stabilization meeting the criteria in Sec. 9-167 (t) of this Article will be achieved when the individual lot operator:

1. completes final stabilization; or

2. has installed appropriate erosion and sediment control measures for an individual lot prior to occupation of the home by the homeowner and has informed the homeowner of the requirement for, and benefits of, final stabilization.

**Sec. 9-169 Monitoring of Discharges.**

The Authorized Enforcement Agency shall have authority to monitor discharges from construction sites covered under this Article as described in General Ordinance No. 2, 2008 Illicit Connections and Discharge Regulation.

**Sec. 9-170 Requirement To Prevent, Control, and Reduce Storm Water Pollutants by the Use of Best Management Practices.**

The Authorized Enforcement Agency shall establish requirements identifying Best Management Practices (BMPs) for any activity, operation, or facility which may cause or contribute to pollution or contamination of storm water, the storm drain system, or waters of the United States. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and non-structural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and non-structural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of storm water associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this Section. These BMPs shall be part of a Storm Water Pollution Prevention Plan (SWPPP) as necessary for compliance with requirements of the NPDES permit.

**Sec. 9-171 Inspection.**

a. A self-monitoring program by the project site owner is required during construction of any project regulated by this Article. A trained individual employed or retained by the project site owner shall prepare and maintain a written evaluation of the project site by the end of the next business day following each measurable storm event and at a minimum of one (1) time per week.

b. The evaluation must address the maintenance of existing storm water quality measures to ensure they are functioning properly; and identify additional measures necessary to remain in compliance with all applicable statutes and rules.

c. Written evaluation reports must include the following:

1. the name of the individual performing the evaluation;
2. the date of the evaluation;
3. problems identified at the project site; and
4. details of corrective actions recommended and completed.

c. All evaluation reports for the project site must be made available to the Authorized Enforcement Agency, IDEM, or the United States Environmental Protection Agency within forty-eight (48) hours of a request.

d. All persons engaging in construction activities on a project site must comply with the Storm Water Pollution Prevention Plan, this Article, Rule 5, and the City of Terre Haute Construction Standards and Specifications.

e. The Authorized Enforcement Agency will perform inspections and provide recommendations to evaluate the installation, implementation, and maintenance of control measures and management practices at any project site involved in construction activities. Construction project sites will be prioritized based on the nature and extent of the construction activity, topography, and the characteristics of soils and receiving water quality.

f. If after a recommendation is provided to the project site owner, corrective action is not taken, the Authorized Enforcement Agency will pursue enforcement pursuant to Sec. 9-173.

#### **Sec. 9-172 Post-Construction Controls for New Development or Redevelopment.**

On areas that undergo new development or redevelopment, site construction resulting in disturbance of one (1) acre or more total land area, post construction control measures in the form of structural and/or non-structural best management practices are required. Post-construction storm water pollutant loading will be addressed through the Six (6) Minimum Control Measures, as provided in the MS4 Program, so that preconstruction loadings will not be exceeded. Post-construction storm water Best Management Practices (BMPs) shall follow Indiana's Storm Water Quality Manual as a guidance document. It is the goal of the Authorized Enforcement Agency to have full technical and administrative approval authority on the application and design of all post-construction BMPs, conditions, definitions, and submittal requirements of Construction Plans and specifications and related documents as defined in 327 IAC 15-5-6.5(a)(8). Additionally, all post-construction storm water Best Management Practices, structural and/or nonstructural, shall be operated and maintained by the property owner in the manner approved by the City or its agents.

#### **Sec. 9-173 Enforcement.**

a. Enforcement of this Article shall be subject to the severity of the infraction and the construction site operator's efforts to comply. The Authorized Enforcement Agency shall reserve the right to interpret enforcement on a case by case basis. Tiered enforcement will be practiced at the Authorized Enforcement Agency's discretion. The tiered enforcement may include:

1. Verbal warning to the construction site operator to make corrections.
2. Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of

the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.

3. Warning of Non-Compliance with directions to the construction site operator that site conditions require immediate action.

4. Stop Work Order.

5. Revocation of Land Disturbance Permit.

b. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

#### **Sec. 9-174 Injunctive Relief.**

It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this Article. If a person has violated or continues to violate the provisions of this Article, the Authorized Enforcement Agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

#### **Sec. 9-175 Compensatory Action.**

In lieu of enforcement proceedings, penalties, and remedies authorized by this Article, the Authorized Enforcement Agency may impose upon a violator alternative compensatory action, such as storm drain stenciling, attendance at compliance workshops, creek cleanup, etc.

#### **Sec. 9-176 Civil Penalty.**

Any person that has violated or continues to violate the provisions of this Article shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to Two Thousand Five Hundred Dollars (\$2,500.00) per violation per day.

The Authorized Enforcement Agency may recover all attorney's fees, court costs, consultant costs, and other expenses associated with enforcement of this Article, including sampling and monitoring expenses.

#### **Sec. 9-177 Violations Deemed a Public Nuisance.**

In addition to the enforcement processes and penalties provided herein, any condition caused or permitted to exist in violation of any of the provisions of this Article is a threat to public health, safety, and welfare, and is declared and deemed a nuisance, and may be summarily

abated or restored at the violator's expense, and/or civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**Sec. 9-178 Remedies Not Exclusive.**

The remedies listed in this Article are not exclusive of any other remedies available under any applicable federal, state, or local law. It is within the discretion of the Authorized Enforcement Agency to seek cumulative remedies.

**ARTICLE 7. WATERWORKS REGULATIONS.<sup>19</sup>**

**ARTICLE 8. WATERWORK RATES AND CHARGES.<sup>20</sup>**

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<sup>19</sup> Editor's Note: The City of Terre Haute does not own or regulate a waterworks system, therefore, Article 7 was removed in the 2003 recodification.

<sup>20</sup> Editor's Note: The City of Terre Haute does not own or regulate a waterworks system, therefore, Article 8 was removed in the 2003 recodification.