

JUN 21 2018

GENERAL ORDINANCE NO. 5, 2018

CITY CLERK

AN ORDINANCE AMENDING CHAPTER 9 OF THE *TERRE HAUTE CITY CODE*.

WHEREAS the City of Terre Haute seeks to update its *City Code* from time to time for accuracy and compliance with State and Federal Law; and

WHEREAS certain State and Federal agencies require changes in local ordinances to correspond with applicable standards.

IT IS HEREBY ORDAINED by the Common Council of the City of Terre Haute as follows:

Section 1. *Terre Haute City Code*, Chapter 9, is hereby amended with the addition of the underlined text and deletion of the stricken text as follows:

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Division X. ~~Adminsitration~~ Administration Enforcement Remedies.

...

Division XI. ~~Judicial Enforement~~ Enforcement Remedies.

...

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

...

Sec. 9-101 ~~Role of Board of Public Works and Safety~~ Board of Sanitary Commissioners.

...

**CHAPTER 9  
UTILITIES**

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

...

k. ~~Board of Public Works and Safety~~ Board of Sanitary Commissioners. The Board of ~~Public Works and Safety~~ Sanitary Commissioners of the City of Terre Haute, Indiana, or any duly.

...

y. **Control Authority.** The term "Control Authority" shall refer to the City of Terre Haute's ~~Board of Public Works and Safety~~ Board of Sanitary Commissioners.

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

...

**cc. Director.** The Wastewater Director designated by the ~~Board of Public Works and Safety~~ Board of Sanitary Commissioners to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Article, or a duly authorized representative.

...

**yy. Non-Residential Hauled Wastewater.** Wastewater generated at industrial or commercial sites delivered to the POTW in tanks, drums, containers or other similar vessels. Examples include, but are not limited to, landfill leachate, wastewater from car wash pits, wastewater collected from secondary containment structures, et cetera.

**yyzz. Non-significant Industrial User.**

...

**zzaaa. Non-significant Categorical Industrial User.**

...

**aaabbb. Normal Domestic Sewage.** Wastewater or sewage having an average daily concentration as follows:

TSS not more than 300 mg/L  
BOD5 not more than 250 mg/L  
Ammonia-N not more than 25 mg/L

As defined by origin, wastewaters from segregated domestic and/or sanitary ~~conveniencessconveyances~~ are distinct from industrial processes.

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

**eeeddd. Person.** Any individual, partnership, firm, company, municipal or private corporation, association, society, institutions, enterprise, governmental agency or other legal entity or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by context.

**dddeee. pH.** The logarithm (base 10) of the reciprocal of the concentration of hydrogen ion expressed in standard units.

**eeefff. Pollutant.** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, industrial wastes and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, TBOD, CBOD, COD, toxicity or odor) discharged or carried in water.

**fffggg. Pretreatment.** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

**ggghhh. Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

**hhhhii. Pretreatment Standards.** Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

**iiiiii. Prohibited Discharges.** Absolute prohibitions against the discharge of certain substances.

**jjkkkk. Publicly Owned Treatment Works (POTW).** A "treatment works", as defined by Section 212 of the Act which is owned by the City. This definition includes any devices or systems used in the collection, pumping, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

**kkkkll. Sanitary Sewer.** A sewer or system of pipes for conveying sanitary, commercial and industrial wastewaters and into which stormwater and/or water from storm events are not intentionally admitted.

**llmmmm. Septage.** Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**mmnnnn. Sewage.** The combination of the liquid and water-carried wastes from residences, business buildings, institutions and industrial establishments singular or in any combination, together with such ground, surface, and storm waters as may be present.

**nnoooo. Sewage Works.** The structures, equipment and processes to collect, transport and treat domestic and industrial wastes and dispose of the effluent and accumulated residual solids.

**oooppp. Sewer.** A pipe or conduit or system of pipes and conduits for carrying sewage or other waste liquids.

**ppppqq. "Shall" is mandatory; "May" is permissive.**

**qqrrrr. Significant Industrial User (SIU).**

...

**rrssss. Discharge, Slug Load, or Slug.** Any discharge of a non-routine, episodic nature including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause ~~interference~~ interference or pass through, or in any other way violate the POTW's regulations, local limits or Permit conditions. (Gen. Ord. No. 4, 2014, 7-17-14)

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

ttuuuu. **State.** State of Indiana.

uuuvvv. **Standard Methods.** The laboratory procedures set forth in the latest edition, at the time of analysis, of Standard Methods for the Examination of Water and Wastewater prepared and published by the American Water Works Association, the Water Environmental Federal and the American Public Health Association.

vvvwww. **Storm Sewer.** A sewer or system of pipes for conveying surface water or ground water from any source and into which sanitary and/or industrial wastes are not intentionally admitted.

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

xxxyyy. **Total Suspended Solids (TSS).** The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering usually expressed as a concentration (e.g., mg/L). The laboratory determinations shall be made in accordance with procedures set forth in the latest edition of 40 CFR 136.3.

yyzzz. **Toxic Amount.** Concentrations of any pollutant or combination of pollutants which upon exposure to or assimilation into an organism will cause adverse effects, such as cancer, genetic mutations, and physiological manifestations as defined in standards issued pursuant to Section 307(a) of the Act.

zzzaaaa. **Toxic Pollutant.** Those substances referred to in Section 307(a) of the Act, as well as any other known potential substance capable of producing toxic effects.

aaaabbbb. **Total Toxic Organics (TTOs).** TTOs are toxic organics, as defined and analytically measured by definition in the Federal Register.

bbbcccc. **Upset.** An exceptional incident in which a discharger unintentionally and temporarily is in a state of non-compliance with applicable standards due to factors beyond the reasonable control of the discharger, and excluding non-compliance to the extent caused by operator error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation of the facilities.

eeeedddd. **User.** Any person who contributes, causes, or permits the contribution of residential, commercial, industrial or any other type of wastewater into the City's POTW. Users may be classified as residential, commercial, industrial, governmental/institutional as may be appropriate to identify the type of wastewater that the user contributes to the wastewater system.

ddddeeee. **Wastewater.** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

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

ffffgggg. **Wastewater Treatment Plant (Treatment Plant).** That portion of the POTW that is designed to provide treatment of municipal sewage and industrial waste. (Gen. Ord. No. 8, 2012; 9-13-12)

Division II. General Rules and Requirements.

**Sec. 9-9 General Requirements.**

...

c. No person shall construct, repair, modify or alter a sewer lateral, public sewer, manhole or other sewer system appurtenance without first obtaining a permit from the ~~Board of Public Works and Safety~~Board of Sanitary Commissioners.

...

g. No statement contained in this Ordinance shall be construed as preventing the City from entering into an agreement between the City and any ~~industrial discharger~~User whereby an ~~industrial waste~~wastewater of unusual strength or character may be accepted by the City for treatment subject to payment for treatment services by the ~~industrial discharger~~User.

...

k. The Wastewater Utility shall develop and submit to the ~~Board of Public Works and Safety~~Board of Sanitary Commissioners, for approval, written construction standards for the construction of sewer laterals, sewer mains, manholes and other appurtenances that are connected to the City of Terre Haute sewer system. The Wastewater Utility shall revise the construction standards as appropriate and on a regular basis.

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**Sec. 9-10 Prohibited Discharge Standards.**

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

...

- (2) Except in accordance with Sec. 9-9(Gg) of this Article, wastewater having a pH less than 5.0 or more than 10, or otherwise causing corrosive structural damage to the POTW or equipment, but in no case wastewater which causes the pH at the introduction into the treatment plant to exceed 10;

...

Division III. Pretreatment of Wastewater.

**Sec. 9-16 Establishment of Pretreatment Program.**

The Director is hereby authorized and directed to establish a Pretreatment Program for the purpose of properly monitoring and controlling the discharging of non-domestic wastewaters into the City of Terre Haute's sewer system. The Pretreatment Program shall have written policies and procedures developed and approved by the Terre Haute ~~Board of Public Works and Safety~~Board of Sanitary Commissioners. The policies and procedures shall address, but not be limited to, issues such as a schedule and frequency of surveillance of Significant Industrial Users, Enforcement Procedures and Enforcement Response Plan. (Gen. Ord. No. 8, 2012; 9-13-12)

**Sec. 9-17 Pretreatment Facilities.**

Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Sec. 9-9 and Sec. 9-10 of this Article within the time limitations specified by EPA, the State, or the ~~Board of Public Works and Safety~~Board of Sanitary Commissioners, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Director for review, and shall be reviewed and approved by the Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article. (Gen. Ord. No. 8, 2012; 9-13-12)

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**Sec. 9-20 Hauled Wastewater.**

a. Trucked or hauled wastewater (hereafter "hauled wastewater") approved by the Director may be introduced into the POTW only at locations and times designated by the Director. The Director designates the following locations and times for the introduction of hauled wastewater into the POTW:

- (1) Emergency Location with 24-Hour Availability  
 (a) ~~Mainlift Station~~Main Lift Station – 2720 Prairieon Rd.

...

- (2) Locations To Be Used Only from 7:00 a.m. to 5:00 p.m., Monday through Friday

...

- (f) ~~Glen & Maple Liftstation~~Lift Station (North Chamberlain Road)

b. ~~Hauled wastewater~~Non-Residential Hauled Wastewater shall not violate Sec. 9-9 through Sec. 9-15 of this Article or any other requirements established by the City. The Director shall require wastewater haulers not employed by the City of Terre Haute Wastewater Utility to obtain a license issued by the City (Sec. 9-89 of this Article). The Director may require licensed haulers to provide a laboratory analysis of the wastewater prior to discharge, to ensure compliance with this Article.

...

e. Wastewater haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the wastewater hauler, ~~permit number, truck identification,~~ names and addresses of sources of wastewater, and volume and characteristics of wastewater. The form shall identify the type of waste, known or suspected wastewater constituents, and whether any wastewater is RCRA hazardous waste. (Gen. Ord. No. 8, 2012; 9-13-12; Gen. Ord. No. 4, 2014, 7-17-14)

f. The provisions of this section are not applicable to the customary operation and maintenance activities of the Wastewater Utility or its designees conducting services on behalf of the City of Terre Haute or the Wastewater Utility. Hauled wastewater transported by the POTW, or on behalf of the POTW, originating from activities related to sewer cleaning, inspection, maintenance, repair, or other similar activity conducted on the conveyance system or appurtenances may be introduced into the sewer system at the nearest access point to the area where the work is being conducted. The Wastewater Utility Director must be notified prior to the commencement of wastewater disposal activities. Nothing in this paragraph shall relieve any industrial user from the requirements of any pretreatment standards, or the City of Terre Haute or the Wastewater Utility from the requirements of its NPDES permit.

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#### Division V. Wastewater Discharge Permit Issuance Process.

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#### **Sec. 9-33 Regulation of Waste Received from Other Jurisdictions.**

a. If another municipality, political jurisdiction or user located within another municipality or other political jurisdiction outside of the City of Terre Haute, contributes wastewater to the POTW, the ~~Board of Public Works and Safety~~Board of Sanitary Commissioners shall enter into an agreement with the contributing political jurisdiction, user and political jurisdiction in which the user is located.

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#### Division VI. Reporting Requirements.

#### **9-34 Baseline Monitoring Reports.**

...

- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule, as described in Sec. 9-28(Bb)(3) of this Article, by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this Subsection must meet the requirements set out in Sec. 9-35 of this Article.

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**Sec. 9-35 Compliance Schedule Progress Reports.**

The following conditions shall apply to the compliance schedule required by Sec. 9-34(Bb)(7) of this Article:

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**Sec. 9-36 Reports on Compliance with Categorical Pretreatment Standard Deadline.**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, and/or Best Management Practices (BMPs) or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and/or Best Management Practices (BMPs) and requirements shall submit to the Director a report containing the information described in Sec. 9-34(Bb)(4-6) of this Article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Sec. 9-25 of this Article. All sampling will be done in conformance with Sec. 9-44 of this Article. (Gen. Ord. No. 8, 2012; 9-13-12; Gen. Ord. No. 4, 2014; 7-17-14)

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**Sec. 9-37 Periodic Compliance Reports.**

...

c. If a user subject to the reporting requirement in this Section monitors any ~~pollutant~~regulated pollutant at the designated sampling point more frequently than required by the Director, using the procedures prescribed in Sec. 9-44 of this Article, the results of this monitoring shall be included in the report.

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**Sec. 9-44 Sample Collection.**

a. Except as indicated in Subsections B(b) and D(d) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the Director may authorize the use of time proportional sampling or a minimum of eight (8) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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**Sec. 9-47 Certification Statements.**



...

b. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to Sec. 9-8(zzaaa) or Sec. 9-8(qqqrr) of this Article must annually submit the following certification statement signed in accordance with the signatory requirements in Sec. 9-8(EE) of this Article. This certification must accompany an alternative report required by the Director:

*Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR \_\_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]:*

*(a) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Sec. 9-8(zzaaa) of the Terre Haute Utilities Ordinance;*

*~~(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.~~ (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and*

*(c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

...

#### Division XI. Judicial Enforcement Remedies.

...

#### **Sec. 9-64 Criminal Penalties.**

a. Any person who knowingly or willfully makes any false statement, representation or certification in any application, report or other document required by this ~~Article~~ Article or other regulations adopted by the Board, or who tampers with or knowingly or willfully renders inaccurate any monitoring device so as to render false information may be subject to the provisions of I.C. 35-44-2-1. The Board shall, when appropriate, refer such matters to the City Attorney for consideration of criminal prosecution. The Board also reserves the right to refer suspected knowing or willful violations to the Indiana Department of Environmental Management or the U.S. Environmental Protection Agency, Region 5 for criminal prosecution.

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#### Division XIII. Affirmative Defenses to Discharge Violations.

#### **Sec. 9-67 Upset.**

...

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

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

...

(a) A description of the ~~indirect~~ discharge and cause of noncompliance;

...

**Sec. 6-989-68 Prohibited Discharge Standards.**

...

**Sec. 9-69 Bypass.**

...

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

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d. Bypassing is prohibited, and the Director may take an enforcement action against a user for a bypass, unless

...

(3) The user submitted notices as required under paragraph (Cc) of this Section.

e. The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraph (Dd) of this Section. (Gen. Ord. No. 8, 2012; 9-13-12)

...

**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>172</sup>

...

b. **Board.** The ~~Board of Public Works and Safety~~Board of Sanitary Commissioners of the City or its duly authorized agent or employee.

...

e. **Director.** The Wastewater Director designated by the ~~Board of Public Works and Safety~~Board of Sanitary Commissioners to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative.

...

h. **Inspector.** The person or persons duly authorized by the City, through its ~~Board of Public Works and Safety~~Board of Sanitary Commissioners, to inspect and approve the installation of building sewers and their connection to the public sewer system.

...

u. **Discharge, Slug Load, or Slug.** Any discharge of a non-routine, ~~episodic~~episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any way violate the POTW's regulations, local limits, or Permit conditions. (Gen. Ord. No. 4, 2014; 7-17-14)

...

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

a. Where a public sanitary or combined sewer is not available under the provisions of ~~Sec. 9-73d~~9-73(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 ~~Sec. 9-73d~~9-73(d), a direct connection shall be made to the public sewer in compliance with this Article, and any septage tanks, cesspools and similar private sewage disposal facilities shall be abandoned and filled with suitable material.

...

#### **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 ~~Board of Public Works and Safety~~Board of Sanitary Commissioners.

...

#### **Sec. 9-76 Discharge Regulations.** <sup>173</sup>

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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~~ Director. 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.

...

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. ~~9-76~~ 9-76(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:

...

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

...

b. While performing the necessary work on private properties referred to in Sec. ~~9-78~~ a-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).

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**ARTICLE 4. SEPTIC TANK REGULATIONS. <sup>175</sup>**

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<sup>175</sup> Editor's Note: Gen. Ord. No. 1, 2015 As Amended ~~amended~~ Gen. Ord. No. 14, 1990, As Amended § 1311.05, which amended Gen. Ord. No. 2, 1984 which had been passed on March 8, 1984.

**Sec. 9-92 Sewage Disposal at Wastewater Utility; Regulations and Rates. <sup>176</sup>**

a. **Sewage Disposal Company Located Inside County Limits.**

(1) Waste loads originating from a sewage disposal company with its principal place of business, as registered with either the Indiana Secretary of State or the Indiana Department of Revenue, ~~with~~ within the Vigo County corporate boundary, may be accepted at the Terre Haute Wastewater Utility, at the place provided ~~therefor~~ therefore. A laboratory analysis of said waste may be performed by the Wastewater Utility and fees may be charged for said laboratory analysis.

...

b. **Sewage Disposal Company located Outside County Limits.**

- (1) Waste loads originating from a sewage disposal company with its principal place of business, as registered with either the Indiana Secretary of State or the Indiana Department of Revenue, outside the Vigo County corporate boundary may be accepted at the Terre Haute Wastewater Utility, at the place provided ~~therefor~~therefore. A laboratory analysis of said waste may be performed by the Wastewater Utility and fees may be charged for said laboratory analysis.
- (2) 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:
- \$~~0.2~~\$0.20 per gallon of truck capacity or actual waste disposed (as metered)

...

d. ~~The Board of Public Works and Safety~~Board of Sanitary Commissioners shall have the authority, by resolution passed by the Board, to increase the per gallon disposal fees for both inside the county and outside the county to take effect on January 1, 2018. The increase over the existing rates shall be equal to the percentage of increase of the federally published CPI-Midwest (Consumer Price Index) and shall take effect on January 1 of each respective year thereafter. ~~The Board of Public Works and Safety~~Board of Sanitary Commissioners shall be responsible for publishing an annual notice of the disposal rate increase (Gen. Ord. 1, 2015 As Amended, 2-12-15).

...

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

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**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 Sanitary District shall be:

~~December 1, 2016 Eight Dollars and Fifty-Eight Cents (\$8.58) per one hundred cubic feet.~~

January 1, 2018 Nine Dollars and One Cent (\$9.01) per one hundred cubic feet.

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177 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.

~~December 1, 2016 Twenty-Six Dollars and Eighty-Seven Cents (\$26.87) 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.~~

January 1, 2018 Twenty-Eight Dollars and Twenty-One Cents (\$28.21) 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.

c. All domestic non-commercial non-industrial users with non-metered water source shall pay a flat rate per month of:

~~December 1, 2016 Forty-Six Dollars and Seventeen Cents (\$46.17).~~

January 1, 2018 Forty-Seven Dollars and Thirty-Two Cents (\$47.32). (Gen. Ord. 15, 2016, 11-10-16)

d. 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. 9-101     ~~Role of Board of Public Works and Safety~~Board of Sanitary Commissioners.**

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~~Board of Sanitary Commissioners 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. 9-104     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~~Board of Sanitary Commissioners 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.     **High Strength Surcharges.** High strength wastewater will be surcharged as outlined below.

- (1) High strength wastewater containing total suspended solids (TSS) in excess of 300 mg/L shall be billed at \$0.25 per pound.

- (2) High strength wastewater with a biochemical oxygen demand (BOD) concentration in excess of 250 mg/L shall be billed at \$0.25 per pound.
- (3) High strength wastewater with a total ammonia-nitrogen (NH<sub>3</sub>-N) concentration in excess of ~~50~~25 mg/L shall be billed at \$0.60 per pound.

...

**Sec. 9-105 Sewer Connection Fees.** <sup>178</sup>

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

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**Sec. 9-106 Application for Permit; Waivers.** <sup>179</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~~Board of Sanitary Commissioners 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:

...

The ~~Board of Public Works and Safety~~Board of Sanitary Commissioners 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~~Board of Sanitary Commissioners 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. 9-109 By-Laws and Regulations.**

The ~~Board of Public Works and Safety~~Board of Sanitary Commissioners 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. 9-111 Utility Deposits.**

a. Deposits by Users.

All ~~person~~persons 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)

...

**Sec. 9-115 Definitions.**

The terms "Eligible Residential Dwelling Unit" and "Monthly Waste and Refuse Collection Costs" shall be defined as follows:

ea. Eligible Residential Dwelling Unit. For purposes of this Article, the term "Eligible Residential Dwelling Unit" means a structure located within the City which includes a room or series of rooms located within a building or mobile home and forming a single habitable unit with facilities, which are used, or are intended to be used for living, cooking, eating and sleeping, and is either:

(i1) A "Single-Family Residential Dwelling Unit," defined as a residential dwelling unit separated from any other dwelling unit by open space, and designed for occupancy for one person or family;

(ii2) A "Multi-Family Residential Dwelling Unit," defined as a building or portion thereof, which contains four (4) or less units, with each dwelling unit being independent of the other; or,

(iii3) A "Condominium", defined as any multi-family residential unit where the owner pays separately assessed property taxes.

fb. Monthly Waste and Refuse Collection Costs. For purposes of this article the term "Monthly Waste and Refuse Collection Costs" is defined as the total annual bid amount for providing waste and refuse collection and recycling services to all Eligible Residential Dwelling Units in the City, divided by the number of Eligible Residential Dwelling Units receiving said service; prorated over twelve (12) months of equal payments. (amended by Gen. Ord. No. 14, 2016, 10-13-16)

**Sec. 9-116 Monthly Billings and Minimum Charges.**

The monthly waste and refuse collection fees shall be established as indicated with effective dates as follows:

a. The rate for waste and refuse collection inside the City shall be:

~~June 1, 2016 Ten Dollars and Twenty five Cents (\$10.25) per month~~

July 1, 2017 Ten Dollars and Fifty Cents (\$10.50) per month

July 1, 2018 Ten Dollars and Seventy-five Cents (\$10.75) per month

July 1, 2019 Eleven Dollars (\$11.00) per month



...

**Sec. 9-117 Available Credits.**

a. Any owner-occupant of an Eligible Residential Dwelling Unit who has filed, and been granted:

(i) A claim for an over age 65 deduction for property taxes pursuant to Indiana Code 6-1.1-12-9; or

(ii) A claim for a blind or disabled deduction for property taxes pursuant to Indiana Code 6-1.1-12-1; or

(iii) A claim for a disabled veteran or surviving spouse deduction for property taxes pursuant to Indiana Code 6-1.1-12-13;

is eligible for a twenty-five percent (25%) per month credit from the fee schedule in Section 9-116. A residential parcel may receive only one (1) credit even though the owner-occupant may be eligible under more than one statute listed in Section 9-117(a) above.

b. Any individual or entity receiving a bill for service pursuant to Section 9-116 shall be eligible for a recycling rebate of twenty-five percent (25%) percent per month, to be applied after any credits received under Section 9-117(a), if the individual or entity receiving service through the City's waste and refuse collection service provider at the same service address:

(i) Contracts for curb side recycling services with the City's waste refuse collection service provider;

(ii) Maintains an account in good standing with the City; and

(iii) Continues to hold an active account at the time;

every month for which this rebate is to be applied.

...

**ARTICLE 6. WASTEWATER TREATMENT FACILITIES.** <sup>180</sup>

...

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:

<sup>180</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.

- (i1) one-sixth (1/6) of the amount of interest becoming due on the next succeeding interest payment date, plus
- (ii2) one-twelfth (1/12) of the amount of principal becoming due on the next succeeding November 1, plus
- (iii3) one-twelfth (1/12) of all paying agents' fees and charges anticipated to become due in the next succeeding twelve (12) month period.

...

#### ARTICLE 7. ILLICIT CONNECTIONS AND DISCHARGE REGULATION. <sup>182</sup>

...

##### Sec. 9-131 Definitions.

...

- 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.

...

##### 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~~ Board of Sanitary Commissioners, to persons or entities in the beneficial interest of or in the employ of the City.

...

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

...

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.**

...

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.

...

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

...

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. 9-142      Violations and Enforcement.**

...

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.
- (8) Such notice may require without limitation:
  - 1.(a) The performance of monitoring, analyses, and reporting;
  - 2.(b) The elimination of illicit connections or discharges;
  - 3.(c) That violating discharges, practices or operations shall cease and desist;
  - 4.(d) The abatement or remediation of storm water pollution or contamination hazards and the restoration of any affected property;
  - 5.(e) Payment of a fine to cover administrative and remediation costs; and
  - 6.(f) The implementation of source control or treatment BMPs.

...

**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~~ Board of Sanitary Commissioners. 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~~ Board of Sanitary Commissioners 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~~ Board of Sanitary Commissioners 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~~ Board of Sanitary Commissioners, 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~~ Board of Sanitary Commissioners 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.

...

**ARTICLE 8. CONSTRUCTION SITE AND POST-CONSTRUCTION SITE STORM  
WATER CONTROL.** <sup>183</sup>

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

...

- (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.**

...

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.

...

ut. **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.**

...

- 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~~ Board of Sanitary Commissioners to persons or entities in the beneficial interest of or in the employ of the City.

...

**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.

...

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.**

...

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.

...

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).

...

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

...

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.

...

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:

...

- (2-) The evaluation must:

...

- (3-) Written evaluation reports must include:

...

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.**

...

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. 9-171 Inspection.**

...

- 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.

...

**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.

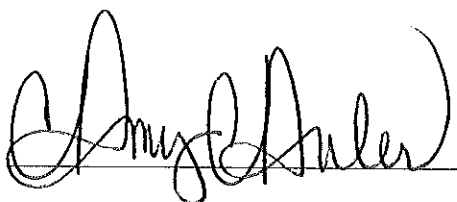
- (2.) Written warning to the construction site operator to make corrections within a specified period of time. The period of time shall take into account issues such as the severity of the problem, pending weather, seasonal conditions, and the level of effort necessary to correct the problem.
- (3.) 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.

...


**SECTION 2.** The illegality or invalidity, for any reason, of any of the sections of this ordinance, or parts thereof, shall invalidate only such section or sections as are so determined to be illegal or invalid, any such invalidity shall have no effect on the remaining sections of this ordinance.

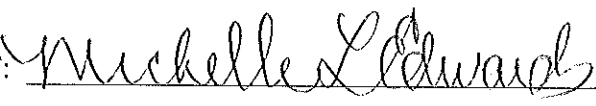
**SECTION 3.** All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

**SECTION 4.** This ordinance shall be in full force and effect from and after the date of its passage by the Common Council and its approval by the Mayor.

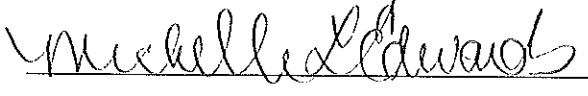
Introduced by:  Amy Auler, Councilperson

Passed in open Council this 12 day of July, 2018.

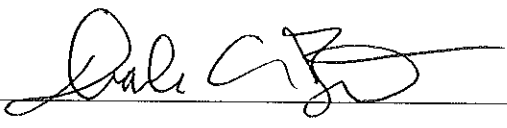
 Curtis DeBaun IV, President

ATTEST:  Michelle L. Edwards, City Clerk

Presented by me to the Mayor this 13 day of July, 2018.

 Michelle L. Edwards, City Clerk

Approved by me, the Mayor, this 13<sup>TH</sup> day of July, 2018.

 Duke A. Bennett, Mayor

ATTEST:  Michelle L. Edwards, City Clerk