

°AMENDED ORDINANCE # 27A

An Amended Ordinance Regulating the Connection To and Use of Public and Private Sanitary and Drains, the Installation and Connection of Building Sanitary Sewers, and the Discharge of Sanitary Waters and Wastes into the Public Sanitary Sewer System of the Town of Ossian, Indiana, and Providing Penalties for Violations Thereof.

Whereas, the Town Council of Ossian, Wells County, Indiana, adopted Amended Ordinance # 27; and

Whereas, the Town Council of Ossian, Wells County, Indiana, now finds it necessary to amend Amended Ordinance # 27;

NOW THEREFORE, BE IT ORDAINED BY THE Town Council of Ossian, Indiana:

Section 1. Definitions,

Unless otherwise defined herein, terms shall be as adopted in the latest edition of Standard Method for the Examination of Water and Wastewater published by the American Public Health Association, and American Water Works Association, and the Water Environment Federation and set forth in 40CFR136. Waste constituents and characteristics shall be measured by Standard Methods unless a mutually agreed upon acceptable alternative method is adopted, or as established by state or federal regulatory agencies. Monitoring will be carried out by customarily accepted methods.

- A. "Sanitary Sewage works" shall mean all facilities for collecting, pumping, treating, and disposing of sewage.
- B. "Superintendent" shall mean the Superintendent of the municipal sewage works of the Town of Ossian, Indiana, or his authorized deputy, agent or representative.
- C. "Inspector" shall mean the person or persons duly authorized the the Town, through its Town Council to inspect and approve the installation of building sewers and their connection to the public sanitary sewer system.
- D. "Sewage" shall mean 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. "Sanitary Sewer" shall mean a pipe or conduit for carrying sewage.
- F. "Public Sewer" shall mean a sewer in which all owners of abutting properties have equal rights, and is controlled by public authority.
- G. "Gray water" shall mean all water excepting storm water.
- H. "Sanitary sewer" shall mean a sewer which carries sewage and to which storm, surface, and ground waters are not intentionally admitted.
- I. "Storm drain" (sometimes termed "storm sewer") shall mean a sewer which carries storm and surface waters and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling water.
- J. "Publicly Owned Treatment Works (POTW)" shall mean any arrangement of devices and structures used for treating sewage.

- K. "Industrial wastes" shall mean the liquid wastes from industrial manufacturing processes, trade, or business as distinct from sanitary sewage.
- L. "Garbage" shall mean 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" shall mean 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" shall mean 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 (3) feet outside the building walls where it connects with its respective building sewer.
- O. "Sanitary building sewer" shall mean the extension from the building drain to the public sewer or other place of disposal.
- P. "B.O.D." (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C, expressed in milligrams per liter.
- Q. "pH" shall mean the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- R. "Total Suspended solids (TSS)" shall mean solids that either float on the surface of, or are in suspension in water, sewer, or other liquids, and which are removable by laboratory filtering.
- S. "Natural outlet" shall mean any outlet into a watercourse, pond, ditch, lake, or other body of surface or ground water.
- T. "Watercourse" shall mean a channel in which a flow of water occurs, either continuously or intermittently.
- U. "Slug" shall mean 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 of flows during normal operation.
- V. "Person" shall mean any individual, firm, company, association, society, corporation, or group,
- W. "Shall" is mandatory; "may" is permissive.

Section 2.

- 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 Town, or in any area under the jurisdiction of said Town, any human or animal excrement, garbage, or other objectionable waste.
- B. It shall be unlawful to discharge to any natural outlet within said Town, or in any area under the jurisdiction of said Town, any sewage or other polluted waters, except where

suitable treatment has been provided in accordance with subsequent provisions of this ordinance.

- C. 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, and properties used for human occupancy, employment, recreation or other purposes, situated within the Town and abutting on any street, alley or right-of-way in which there is now located a public sanitary sewer of the Town, 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 ordinance, which shall include connecting to the new sanitary system installed in and around 1993 and 2001, within thirty (30) days after date of official notice to do so, provided that said public sewer is within three hundred (300) feet of the property line.

Section 3.

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Section 4.

- A. No authorized person shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof.
- B. There shall be two (2) classes of building sewer permits (taps): one, for residential and commercial service and two, for service to establishments producing industrial wastes. A permit (tap) fee will be charged according to the **latest enacted Utility Rate Ordinance**.
- C. 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 Town from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building.
- E. Old building sewers may be used in connection with new buildings only when they are found on examination and tested by the said Inspector, to meet all requirements of this ordinance.
- F. The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the building and plumbing code, other applicable rules and regulations of the Town, and the Construction Standards adopted by the Town.
- G. 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.
- H. No person shall make connection of roof downspouts, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

- I. The connection of the building sewer into the public sewer shall conform to the requirements of the building and plumbing code, other applicable rules and regulations of the Town, and the Construction Standards adopted by the Town, or the procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9. All such connections shall be made gas-tight and water-tight. Any deviation from the prescribed procedures and materials must be approved by the Superintendent before installation.
- J. The application for the building sewer permit (tap) 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.
- K. 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 Town.

Section 5.

- A. No person shall discharge or cause to be discharged any storm water, surface water, ground water, roof runoff, sub-surface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer.
- B. No person shall discharge or cause to be discharged any of the following described water or wastes to any public sewers:
 - I. Any gasoline, benzene, naphtha, fuel oil, mineral oil or other flammable or explosive liquid, solid, or gas.
 - II. 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.
 - III. Any waters or wastes having a pH lower than 6.0 or higher than 9 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the sewage works.
 - IV. 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.
- C. 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 Superintendent 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 a nuisance. In forming his opinion as to the acceptability of these wastes, the Superintendent 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 ability to treat the wastes in the sewage treatment plant, and other pertinent factors. The substances prohibited are:

- I. Any liquid or vapor having a temperature higher than one hundred fifty degrees (150 ° F), (65 °C).
- II. Any water or waste containing fats, wax, grease, or oils, whether emulsified or not, in excess of fifty (50) mg/l or containing substances which may solidify or become viscous at temperatures between thirty-two degrees (32 ° F) and one hundred fifty degrees (150 °F), (0 °and 65 °C).
- III. 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 (0.76 hp metric) or greater shall be subject to the review and approval of the Superintendent.
- IV. Any waters or wastes containing strong acid iron pickling wastes, or concentrated plating solutions whether neutralized or not.
- V. Any waters or wastes containing:
 - a) Iron
 - b) Chromium (hexavalent) in excess of 1.0 mg/l.
 - c) Chromium (trivalent) in excess of 2.0 mg/l.
 - d) Total chromium in excess of 3.0 mg/l.
 - e) Copper in excess of 1.0 mg/l.
 - f) Zinc in excess of 5.0 mg/l.
 - g) Nickel in excess of 1.0 mg/l.
 - h) Lead in excess of 1.0 mg/l.
 - i) Cadmium in excess of 0.02 mg/l.
 - j) Cyanides, as CN ions in excess of 1.0 mg/l.
 - k) 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 Superintendent for such materials.
- VI. Any waters or wastes containing phenols in excess of 0.50 mg/l, or other taste or odor-producing substances, in such concentrations exceeding limits which may be established by the Superintendent 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.
- VII. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Superintendent in compliance with applicable State or Federal regulations. Any toxic radioactive isotopes, without a special permit. The radioactive isotopes I 131 and P 32 used in hospitals are not prohibited, if they are properly diluted before being discharged into the sewer system.
- VIII. 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 volume of flow or concentration of wastes constituting "slugs" as defined herein.
- IX. Any waters or waste containing any toxic substances in quantities that are sufficient to interfere with the biochemical processes of the POTW or that will pass through the plant into the receiving stream in amounts exceeding the standards set by Federal, Interstate, State or other competent authority having jurisdiction.
- X. Any waters or waste that for a duration of five (5) minutes or more have concentration of more than five (5) times the average concentration of the B.O.D. or the suspended solids of the customer's sewage discharge during a twenty-four (24) period of normal operation.
- XI. Any waters or waste containing suspended solids of such character and quantity that unusual provision attention and expense would be required to handle such materials at the POTW, its pumping stations or facilities.
- XII. Any noxious or malodorous gas or substance which, either alone or by interaction with other waste, is capable of creating a public nuisance or hazard to life or of preventing entry into sewers for their maintenance and repair.
- XIII. Any water or wastes containing a phosphate content of 12 mg/l; or an ammonia-nitrogen content of 15 mg/l.
- D. 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 Section (5 (d) of this section, and which in the judgment of the Superintendent may have a deleterious effect upon the POTW, processes, equipment or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Superintendent may;
 - I. Reject the wastes
 - II. Require pretreatment to an acceptable condition for discharge to the public sewers
 - III. Require control over the quantities and rates of discharge; and/or
 - IV. Require a **surcharge** payment to cover the added cost of handling and treating the wastes not covered by existing taxes or sewer charges under the provisions of the **latest enacted Utility Rate Ordinance**. If the discharge is allowed (within these provisions) by the Superintendent, the user shall pay a surcharge for wastewater with BOD and/or TSS higher than 200 mg/l based on actual flows and testing as required by this ordinance. The amount of the surcharge will be justly and equitably adjusted on an annual basis to ensure that all customers pay for their fair share of wastewater transport and treatment costs.
- E. If the Superintendent 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 Superintendent 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 Inspector, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand, or other harmful ingredient; 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. Written records of maintenance and cleaning of these interceptors must be kept and available to be examined by the Inspector.

- 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 Superintendent, 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 Superintendent. This 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 40 CFR 136, 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.
 - I. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage and property. (This particular analyses involved will determine whether a twenty-four (24) hour composite of all outfalls of a premise is appropriate or whether a grab sample or samples should be taken. Normally, but not always, B.O.D. and suspended solids analyses are obtained from twenty-four (24) hour composites of all outfalls whereas pH's are determined from periodic grab samples.)
 - II. In addition, any industrial wastes discharged into the public sewers shall be subject to periodic inspection and determination of character and concentration. The examination shall be made as often as the Superintendent deems if necessary (but at least once a year) and may include the use of suitable continuously monitoring instruments in appropriate cases. Samples shall be collected either manually or by approved mechanical devices and in such a manner as to be representative of the overall composition of the wastes. Sampling period shall be for a period of seven (7) consecutive days, but may be of longer duration at the discretion of the Town. In periods when the sampling program extends for a greater number of consecutive days than seven (7), the Town shall have the prerogative of selecting the seven (7) consecutive days of choice. Every care shall be exercised in collecting the samples to insure their preservation, until analyzed, in a state comparable to that at the time the samples were collected.
- J. No statement contained in this section shall be construed as preventing any special agreement or arrangement between the Town and any industrial concern whereby an industrial water of unusual strength or character may be accepted by the Town for treatment, subject to payment therefore, by the industrial concern.

Section 6.

- A. 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 work. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

Section 7.

- A. The Superintendent, Inspector, and other duly authorized employees of the Town 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 ordinance. The Superintendent 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.
- B. While performing the necessary work on private properties referred to in Section 7a above, the Superintendent or duly authorized employees of the Town 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 the Town's employees and the Town shall indemnify the company against loss or damage to its property by Town 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 Section 5 l.
- C. The Superintendent and other duly authorized employees of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town 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.

Section 8.

A. It shall be unlawful to violate any of the terms, conditions or restrictions of this Ordinance. Any person or legal entity that is found by a court of competent jurisdiction to have violated any provision of the Ordinance may be fined not more than Two Thousand Five Hundred Dollars (\$2,500.00) per offense per day, plus costs and attorney's fees where judgment has been entered accordingly.

B. Any person violating any of the provisions of this Ordinance shall become liable to the Town for any expense, loss or damage occasioned the Town by reason of such violation.

C. ADMINISTRATION AND JURISDICTION

I. All entities discharging non-domestic wastewater to the POTW are subject to the provisions of the ERP. The POTW consistently administers and implements all elements of the ERP. The ERP does not preclude the POTW from taking any, all, or any combination of action against a noncompliant industrial user (IU).

II. ABBREVIATIONS

- a) AO – Administrative Order
- b) EPA – Environmental Protection Agency
- c) ERG – Enforcement Response Guide
- d) ERP – Enforcement Response Plan
- e) IDEM – Indiana Department of Environmental Management
- f) IU – Industrial User
- g) IPC – Industrial Pretreatment Coordinator
- h) NOV – Notice of Violation
- i) POTW – Publicly Owned Treatment Works

D. PERSONNEL RESPONSIBILITIES

I. Industrial Pretreatment Coordinator - The Industrial Pretreatment Coordinator (IPC) is responsible for the day to day implementation and enforcement of the industrial pretreatment program. Potential enforcement responses carried out by the IPC are as follows:

- a) informal notices (verbal and written)
- b) notices of violation
- c) referrals to the state or EPA for criminal action

II. Superintendent - The Superintendent has the responsibility to monitor the IPC's actions and to initiate these additional enforcement actions at the recommendation of the IPC:

- a) administrative orders
- b) compliance schedule
- c) show cause hearings
- d) termination of service
- e) administrative fines
- f) cost recovery
- g) referrals to the city attorney for judicial action
- h) referrals to the state or EPA for criminal action

- III. POTW Attorney - The POTW Attorney will provide legal consultation as requested by the Superintendent on compliance schedules, administrative fines, administrative orders and cost recovery and will take the lead on all referrals for judicial action and POTW initiated criminal investigations.

E. DESCRIPTION OF ENFORCEMENT ACTIONS

- I. Following are the types of Enforcement Action that may be undertaken by the POTW:
 - a) Informal Notice - An informal notice may be either a documented phone call, written warning, or a meeting notifying the IU of minor incidences that have occurred and that need to be corrected. Repeat performance of the same incidence, or escalation of the incidence will result in escalated enforcement action.
 - b) Notice of Violation (NOV) - An NOV is the initial formal enforcement action for a violation. The certified letter notifies the IU signatory authority of the violation and requires the following:
 - 1) Immediate corrective action or steps being taken to correct the problem;
 - 2) Increased sampling of the parameter in violation within thirty (30) days;
 - 3) Written response within ten business days of receipt of NOV.
 - c) Administrative Order (AO) - An Administrative Order is notification to the IU to undertake or to cease specified activities by a specified deadline. It is the first formal response to significant noncompliance (unless factors necessitate escalated enforcement actions). It may contain compliance schedules, administrative fines, termination of service and show cause orders. In addition, it specifies the name of the parties involved, statement of the facts, the requirement to ensure compliance and the enforcement associated with any future non-compliance.
 - d) Compliance Schedule - A Compliance Schedule is a formal time and management schedule established for the non-compliant IU to achieve compliance. It is established for existing IUs to meet the categorical pretreatment standards or local standards. It contains increments of progress in the form of dates for the commencement and completion of major events leading to compliance. In addition, all compliance schedules shall contain the following:
 - 1) Monitoring requirements with the location for monitoring;
 - 2) How the data will be used for evaluating compliance;
 - 3) Enforcement associated with non-compliance;
 - 4) Closure date after which IU will be considered either non-compliant with the established compliance schedule, or evaluated for compliance.
 - e) Show Cause Hearing - A Show Cause Hearing is when the IU and the POTW meet to discuss the cause and effect of the violation, as well as the enforcement action the IU will be subjected to. The IU may present its case as to why the violation occurred and why further enforcement should not be applied. Corrective actions to be undertaken by the IU can also be a part of this meeting.

- j) Termination of Service - Termination of service is the revocation of an IU's privilege to discharge non-domestic wastewater into the sewer system. Termination of service is used when the discharge from an industrial user presents imminent endangerment to the health or welfare of persons, or the environment; or threatens to interfere with the POTW's operations; or as an escalating enforcement action to a significant violation when a noncompliant industrial user fails to respond adequately to previous enforcement actions. Termination of service may be accomplished by physical severance of the IU's connection to the collection system, issuance of an AO (cease and desist order) which compels the IU to immediately terminate its discharge, revocation of the IUs discharge permit, or a court ruling.

- k) Administrative Fines - An administrative fine is a punitive monetary charge assessed by the City/Town rather than a court. The penalty authority must be authorized in the POTW's SUO. The purpose of the fine is to recover the economic benefit of noncompliance and to deter future violations. When assessing an administrative fine the following factors are considered:
 - 1) Type and severity of the violation;
 - 2) Number of violations cited;
 - 3) Duration of noncompliance;
 - 4) Impact of the violation on the receiving water, sludge quality, and POTW operation;
 - 5) Whether the violation threatened public health;
 - 6) The economic benefit or savings the industrial user gained from the noncompliance;
 - 7) Compliance history of the industrial user; and
 - 8) Whether the industrial user is making a good faith effort to comply

- l) Cost Recovery - In addition to administrative fines imposed by the Superintendent, the IU shall be responsible for paying the following (but not limited to) costs incurred by the City/Town for the IU's failure to comply:
 - 1) Cost of mileage and labor incurred in detecting and correcting the violation;
 - 2) Laboratory analysis costs associated with detecting and correcting the violation;
 - 3) Additional treatment costs caused by the violation or associated with detecting and correcting the violation;
 - 4) Costs of any additional equipment acquired or expended by City/Town for detecting or correcting the violation;
 - 5) Repair and/or replacement of any part of the sewerage system damaged by the violation;
 - 6) Any liability, damages, fines or penalties incurred by City/Town as a result of the violation;
 - 7) Any and all expenses of outside professionals to include, but not limited to, engineers, scientists, and/or legal counsel; and
 - 8) Other costs associated with the detection and correction of the violations.

- m) Judicial Action - Judicial Action will be taken when it is deemed necessary to force the IU to correct the violation and comply with the

permit. Judicial action may consist of civil prosecution; criminal prosecution; or an action for injunction, at the discretion of the POTW and its counsel. As an alternative to judicial action, the POTW and IU may agree to a voluntary zero discharge of industrial waste by the IU pending correction of the violation.

- n) Referral to EPA or the State - Where a POTW does not rely on criminal prosecution for its enforcement authority, referral to the State or EPA may be made. For violations that may warrant criminal prosecution, the POTW will refer the case to EPA or the State for further action. Circumstances that trigger EPA or State referrals include (but not limited too) evidence of willfulness, evidence of negligence, and/or bad faith shown by the Industrial User.
- o) Violations that threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.

F. ENFORCEMENT RESPONSE GUIDE

- I. The Enforcement Response Guide (ERG) designates several enforcement options for each type (or pattern) of noncompliance. The intent of the ERG is to provide direction for appropriate enforcement response and to ensure consistent enforcement for similar violations and circumstances. Factors that will be evaluated when determining the appropriate response are as follows:
 - a) good faith of the IU
 - b) compliance history of the IU
 - c) previous success of any prior enforcement actions against the IU (e.g. If historically NOV's have not been effective in returning the user to compliance in a reasonable period of time, an administrative order would be a more appropriate response.)
 - d) violations effect on the environment and/or public health
 - e) violations effect on the POTW
- II. Violations Resulting in Significant Noncompliance – Any violation that results in Significant Noncompliance (SNC) will be addressed through formal enforcement action regardless of the enforcement response otherwise required by the enforcement response guide. The minimum level of enforcement used to address SNC is an AO.
- III. The following categories of SNC of IUs shall be subject to enforcement actions initiated by the Town of Ossian, Indiana:
 - a) Chronic violations of wastewater discharge limits, defined as those in which sixty-six percent (66%) or more of all of the measurements taken during a six (6) month period exceed, by any magnitude, the daily maximum limit or the average limit for the same pollutant parameter.
 - b) Technical review criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six (6) month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC equals one and four-tenths (1.4) for biochemical oxygen demand, total suspended solids, fats, oil,

and grease and one and two-tenths (1.2) for all other pollutants except pH).

- c) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the POTW determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.
 - d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the POTW's exercise of its emergency authority under 327 IAC 5-19-3(1)(G) to halt or prevent such a discharge.
 - e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or administrative order for starting construction, completing construction, or attaining final compliance.
 - f) Failure to provide, within thirty (30) days after the due date, required reports such as:
 - 1) baseline monitoring reports;
 - 2) ninety (90) day compliance reports;
 - 3) periodic self-monitoring reports; and
 - 4) reports on compliance with compliance schedules.
 - g) Failure to accurately report noncompliance.
 - h) Any other violation or group of violations that the POTW determines will adversely affect the operation or implementation of the approved POTW pretreatment program.
- IV. Escalating Enforcement Response – Escalating enforcement response will be used for recurring violations and failure to achieve compliance subsequent to informal or formal enforcement. A recurring violation is one in which the same type of violation occurs on consecutive reporting periods, the violation occurs seasonally, or any other pattern of noncompliance is shown.
- V. Violations Falling Under More Than One Category – Violations that fall under more than one category in the enforcement response guide will be addressed through the more severe enforcement response. All alleged violations will be included in the more severe response.

G. DEFINITIONS OF VIOLATIONS

- I. Minor Sampling, Monitoring, or Reporting Deficiencies -
 - a) Reports/Correspondence submitted up to 10 business days late
 - b) Incomplete reports and/or chain-of-custody - first offense
 - c) Transcription error
 - d) Improper sampling or analytical procedure - first offense
 - e) Late notification of violation to POTW - first offense
 - f) Failure to report any operational changes which affects the discharge flow rate but does not impact the permit - first offense
 - g) Any other violation categorized as minor sampling, monitoring or reporting deficiencies by the POTW.

- II. Major Sampling, Monitoring, or Reporting Deficiencies -
- a) Reports/Correspondence late by 10-30 business days
 - b) Sampling point not accessible to the POTW
 - c) Reports not certified
 - d) Failure to report any operational changes which affects the discharge flow rate and impacts the permit
 - e) Incomplete report or chain-of-custody information - repeat offense
 - f) Failure to submit all the information that leads to the determination of a category of an IU
 - g) Failure to use appropriate analytical methods (40 CFR 136)
 - h) Failure to sample for a parameter
 - i) Failure to report slug load discharge, illegal discharges or spills with no damage to POTW
 - j) Unacceptable explanation for violation
 - k) Improper sampling or analytical procedure - repeat offense
 - l) Any other violation categorized as "Major sampling, monitoring or reporting deficiencies" by the POTW

- III. Critical Sampling, Monitoring, or Reporting Deficiencies -
- a) Reports greater than thirty (30) days late (SNC)
 - b) Complete failure to sample, monitor, or report per the requirements found in the IUs permit.
 - c) Any deficiency of sampling, monitoring, or reporting procedure which places IU in SNC
 - d) Failure to respond to a Show Cause or Administrative Order
 - e) Illegal or unauthorized discharge that results in damage to the POTW
 - f) Any violation of sampling, monitoring, or reporting procedures which directly or indirectly contributes to or is responsible for violation of POTW's NPDES Permit.
 - g) Any other violation categorized as critical sampling, monitoring or reporting deficiencies by the POTW

IV. Unauthorized Discharge - Discharge of any pollutant(s) from a location, process, source or categorical operation that has not been previously approved, identified or permitted.

- V. Damages to the POTW - Occurs when the discharge from an IU causes:
- a) Harm to the collection system, its accessories and wastewater treatment plant
 - b) Interference with the biological operations of the plant
 - c) Deterioration of sludge quality
 - d) The POTW to violate its NPDES permit

H. TIMEFRAMES FOR ENFORCEMENT RESPONSES

- I. All violations will be identified and documented within five (5) days of receiving compliance information.
- II. Initial enforcement responses (informal or formal) will occur within fifteen (15) days of identifying a violation.
- III. Follow up actions for continuing or recurring violations will be taken within sixty (60) days of the initial enforcement response.
- IV. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate response such as halting the discharge or terminating service.

- V. All violations meeting the criteria for significant noncompliance will be addressed through formal enforcement action within thirty (30) days of the identification of SNC.

Section 9.

- A. All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence, or provision of this Ordinance shall not affect the validity of any other part of this Ordinance which can be given without such invalid part or parts.

Section 10.

- A. This Ordinance shall be in full force and effect from and after its passage, approval, recording, and publication as provided by law.

Adopted by the Ossian Town Council of the Town of Ossian on the 27 day of April, 2009.

AYE	NAY
<u><i>Rich White</i></u>	_____
<u><i>Ginger Dial</i></u>	_____
<u><i>Paul Bushy</i></u>	_____
<u><i>[Signature]</i></u>	_____
<u><i>[Signature]</i></u>	_____

Attest:

Mary K Shaper
Clerk Treasurer