

# **City of Bloomington Common Council**

## **Legislative Packet**

**Wednesday, 06 February 2019**

## **Regular Session and Committee of the Whole**

Legislation and background material regarding Resolution 19-01  
[Adoption of Transportation Plan], please consult the  
Council Proposed Transportation Plan page:  
<https://bloomington.in.gov/council/plan-schedule>

Legislation and background material regarding Appropriations  
Ordinance 19-01, Ordinance 19-02, Ordinance 19-05, Ordinance 19-06,  
and Resolution 19-03 contained herein.

*For a schedule of upcoming meetings of the Council and the City's boards and commissions, please  
consult the City's [Calendar](#).*

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**To: Council Members**  
**From: Council Office**  
**Re: Weekly Packet**  
**Date: 01 February 2019**

LEGISLATIVE PACKET CONTENTS	
REGULAR SESSION <i>followed by a</i> COMMITTEE OF THE WHOLE WEDNESDAY, 06 FEBRUARY 2019	
<ul style="list-style-type: none"><li>• Memo from Council Office</li><li>• Agenda</li><li>• <u>Appropriation Ordinance 19-01</u>: Authorizing Expenditures from the Food and Beverage Tax Fund (New Legislation)</li><li>• <u>Ordinance 19-02</u>: Adjusting Storwater Fees (New Legislation)</li><li>• <u>Ordinance 19-05</u>: Rewriting Title 10 (Wastewater) in Concert with EPA Review (New Legislation)</li><li>• <u>Ordinance 19-06</u>: Reducing Fees for Certain Law Enforcement Recordings to Comply with Statute (New Legislation)</li><li>• <u>Resolution 19-03</u>: To Extend the ERA and Grant a Period of Abatement for Real and Personal Property (Catalent Indiana, LLC) (New Legislation)</li></ul>	

**MEETINGS ON WEDNESDAY, 06 FEBRUARY 2019, AT-A-GLANCE**

**REGULAR SESSION**

*First Reading:*

- Appropriation Ordinance 19-01: Authorizing Expenditures from the Food and Beverage Tax Fund
- Ordinance 19-02: Adjusting Storwater Fees (New Legislation)
- Ordinance 19-05: Rewriting Title 10 (Wastewater) in Concert with EPA Review (New Legislation)
- Ordinance 19-06 - Reducing Fees for Certain Law Enforcement Recordings to Comply with Statute

*Second Reading: (None)*

*Continued Discussion:*

- Resolution 19-01 – Approving the Transportation Plan, an Amendment to the Comprehensive Plan (Discussion of Chapters 4, 5, and 6)

## **COMMITTEE OF THE WHOLE**

- Resolution 19-03 - To Extend the ERA and Grant a Period of Abatement for Real and Personal Property (Catalent Indiana, LLC)

### **First Readings -- Material in this Packet**

**Appropriation Ordinance 19-01** To Specially Appropriate from the Food and Beverage Tax Fund Expenditures Related to the Convention Center Expansion (Appropriating Funds from the Food and Beverage Tax Fund)

- Appendix A, Written Approval from the Monroe County Food and Beverage Tax Advisory Commission
- Memo to Council from Deputy Mayor Renneisen
- Tax Distributions
- Draft Letter of Agreement from Architect
- MOU between City and County

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Philippa Guthrie, Corporation Council, [guthriep@bloomington.in.gov](mailto:guthriep@bloomington.in.gov);  
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Jeff Underwood, Controller, [underwoj@bloomington.in.gov](mailto:underwoj@bloomington.in.gov); 812.349.3416

### **Ordinance 19-02 To Amend Title 10 of the Bloomington Municipal Code Entitled**

#### **“Wastewater” (Stormwater Rate Adjustment)**

- Memo to Council from Vic Kelson, Director, City of Bloomington Utilities Department
- Rate Study from London Witte Group
- Strikeout version of BMC 10.08.045 (Stormwater Rates) indicating changes propose by the ordinance

Contact:

*Vic Kelson, Director, CBU, at 812-349-3650, [kelsonv@bloomington.in.gov](mailto:kelsonv@bloomington.in.gov)*

*Chris Wheeler, Assistant City Attorney, 812-349-3426, [wheelech@bloomington.in.gov](mailto:wheelech@bloomington.in.gov)*

**Ordinance 19-05** To Amend Title 10 of the Bloomington Municipal Code Entitled “Wastewater” (A Substantial Rewriting of Title 10 Following a Review Conducted in Concert with the Environmental Protection Agency)

- Memo to Council from Chris Wheeler, Assistant City Attorney
- Red-Line Version of Title 10 (Wastewater) – with a coversheet indicating that final (largely formatting) edits are not included

Contact:

*Vic Kelson, Director, City of Bloomington Utilities, 812-349-3650, [kelsonv@bloomington.in.gov](mailto:kelsonv@bloomington.in.gov)*

*Chris Wheeler, Assistant City Attorney, 812-349-3426, [wheelech@bloomington.in.gov](mailto:wheelech@bloomington.in.gov)*

**Ordinance 19-06** Amending Title 15 of the Bloomington Municipal Code –  
Re: Reducing Fees for Law Enforcement Recordings and Bringing Said Fees into Compliance with State Law

- Memo from City Attorney Mike Rouker
- Strikeout of Bloomington Municipal Code  
*Contact: Mike Rouker, City Attorney, [roukerm@bloomington.in.gov](mailto:roukerm@bloomington.in.gov); 812.349.3556*

### **Committee of the Whole – Material in this Packet**

**Res 19-03:** To Extend the ERA and Grant a Period of Abatement for Real and Personal Property (Catalent Indiana, LLC)

- Memo to Council from Brian Payne, Assistant Director for Small Business Development, Economic and Sustainable Development Department
- Petitioner’s ERA and Tax Abatement Application
- Petitioner’s Completed Statement of Benefits Forms (2)
- Phase I and Phase II renderings
- Map of ERA
- Economic Development Commission Resolutions 19-01 and 19-02.
- City of Bloomington’s [Tax Abatement Guidelines](#) (also linked)  
Contact: Bryan Payne, Assistant Director for Small Business Development, Economic and Sustainable Development Department, [payneb@bloomington.in.gov](mailto:payneb@bloomington.in.gov); 812.349.3419

### **THIRD SECOND MEETING OF SPECIAL SESSION (INCORPORATED INTO THE REGULAR SESSION AGENDA – PART VIII) TO CONSIDER RESOLUTION 19-01 (ADOPTING THE CITY’S TRANSPORTATION PLAN) – STAFF SUMMARY**

The Council will meet next week for the last of three consecutive Wednesdays devoted to the initial review of the Resolution 19-01 (Adopting the City’s Transportation Plan). This meeting will cover *Chapters 4 through 6* and any portions of the appendices that are applicable. Here are the sections for those chapters:

#### **1) CHAPTER 4: RECOMMENDED PROJECTS (and Portions of the Appendices where Applicable)**

4.1 New Roadway Connection

4.2 Multimodal Projects

#### **2) CHAPTER 5: NEXT STEPS FOR KEY RECOMMENDATIONS (and Portions of the Appendices where Applicable)**

5.1 Overall Approaches

5.2 Policy Recommendations



### 3) CHAPTER 6: CONCLUSION (and Portions of the Appendices where Applicable)

#### **First Reading - Summaries**

##### **Item 1:**

#### **Appropriation Ordinance 19-01 To Specially Appropriate from the Food and Beverage Tax Fund Expenditures Related to the Convention Center Expansion (Appropriating Funds from the Food and Beverage Tax Fund)**

Appropriation Ordinance 19-01 authorizes expenditure of monies collected through the Monroe County Food and Beverage Tax. Specifically, the resolution authorizes the appropriation of \$350,000 from the Food and Beverage Tax Fund for the first of two phases of architectural work for the expansion of the Monroe County Convention Center.

#### **The Food and Beverage Tax – Brief Review**

Recall that the Bloomington Common Council passed Resolution 17-38 in support of a Monroe County Food and Beverage Tax in October 2017. In December 2017, the Monroe County Council passed the Monroe County Food and Beverage Tax as authorized by I.C. 9-9-41-0.3, et. seq.<sup>1</sup> By way of review, such a tax applies to any transaction in which food or beverage is furnished, prepared, or served: (1) on site, as provided by a retail merchant; (2) in Monroe County; and (3) by a retail merchant for consideration (money). I.C. § 6-9-41-6. The Food and Beverage Tax imposed on such a transaction equals one percent (1%) of the gross retail income received by the merchant from the transaction. I.C. § 6-9-41-7. Each month the County auditor distributes the tax revenue to either the City or the County, based on where the tax was collected. If collected inside the corporate boundaries, then the City of Bloomington must receive the revenue. If collected outside of the corporate boundaries, then the revenue goes to Monroe County. I.C. § 6-9-41-13. Under statute, shares distributed to both the City of Bloomington and Monroe County can be used “only to finance, refinance, construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.” I.C. § 6-9-41-14-15.

The Food and Beverage Tax collection began in February 2018 and from February through the end of 2018, a total of \$2,558,850 was collected, with 90% of the proceeds going to the City - \$2,247,037.07 and 10% of the proceeds going to the County \$311,813.50. See Food and Beverage Tax Distribution sheet.

This 90%/10% split is a function of the MOU, and not a direct reflection of where the taxes were collected. The MOU between the City and the County directs that 90% of taxes collected will be distributed to the City and 10% will be distributed to the County until the Auditor can determine the location of the collection within the State distribution. Once that is determined, the 90%/10% split will be corrected to reflect collection locations.

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<sup>1</sup> Notably, this provision of the Indiana Code is specific to Monroe County and makes the finding that due to the large percentage of land in Bloomington and Monroe County that is owned by state and federal government, and thus not taxable, the City and County are put at a disadvantage in funding projects. IC. § 6-9-41-0.3. For that reason, the Indiana General Assembly authorized Monroe County to impose a Food and Beverage Tax if it wishes to do so.

### **City Use of the Food and Beverage Tax Monies**

Statute governs how the City uses Food and Beverage Tax proceeds. Statute requires that any Food and Beverage Tax receipt “be used only to finance, refinance construct, operate, or maintain a convention center, a conference center, or related tourism or economic development projects.” I.C. § 6-9-41-15. When the Council expressed its support of the Food and Beverage Tax via [Resolution 17-38](#), the City also pledged its cooperation to use its share of the tax proceeds to fund the expansion of the Convention Center.

A MOU subsequently executed between the City and the County in October 2018 further details the use of funds as follows:

- Construction and/or renovation of a convention/civic center, including all associated costs with design
- Financing or refinancing of a convention/civic center
- Operation of a convention/civic center
- Maintenance of a convention/civic center (p.2)

The MOU further provides that:

- The City and the County may use up to 7.5% of Food and Beverage Tax allocation for “related tourism or economic development projects that support the civic center expansion project.”

### **Use of City’s Proceeds for Phase I of the Convention Center Expansion**

The MOU between the City and County also provides for a nine-member accountability steering committee to “[r]eview, recommend, and oversee the selection and work of the Architect” for the Convention Center expansion. The steering committee includes a member of the City Council (Sturbaum), County Council (Munson), the Mayor, a County Commissioner (Barge), two residents appointed by Commissioners, two residents appointed by the Mayor, and a resident jointly appointed by the County Commissioners and the Mayor. The MOU further requires that the selection of the architect must be approved by a majority of elected officials on the steering committee before the selection may be considered by other entities. After narrowing down an initial pool of seven architectural firms down to four, on 14 December 2018, the elected officials on the Steering Committee approved the recommendation to hire Schmidt Associates & Convergence.

### **Authorization for Expenditures of Food and Beverage Tax Monies**

The State statute that authorizes Monroe County to impose a Food and Beverage Tax also requires that an advisory commission be established to coordinate and assist the County and City fiscal bodies regarding the utilization of the Food and Beverage Tax receipts.<sup>2</sup> I.C. § 6-9-41-16. Locally, this body is the Monroe County Food and Beverage Advisory Commission (the “Commission”). According to statute, three (03) members of the Commission are owners of retail facilities that sell food or beverages subject to the county food and beverage tax, one member is the president of the county executive, one member is a member of the county fiscal body, one member is a member of the city executive, and one is the city executive. The Common Council’s appointment is Councilmember Volan.

In order for the either the county or city fiscal body to expend any food and beverage tax monies, statute attaches two procedural requirements relative to the fiscal bodies and the Commission: First, before any Food and Beverage Tax monies can be spent, the county and city legislative bodies “must request the advisory commission’s recommendations concerning the expenditure of any food and beverage tax funds.” I.C. § 6-9-41-16 (b). Recall that the City Council made this request of the local commission at the Council’s Regular Session on 16 January 2019. Secondly, neither county nor city legislative body may adopt any legislation requiring the expenditure of food and beverage tax without the written approval of a majority of the members of the advisory commission. The Commission met on 22 January 2019 and issued a written approval for use of funds. The written approval is attached to Resolution 19-01 as Appendix A.

On 22 January 2019, the Advisory Commission approved the following use of Food and Beverage Tax funds by the City (*See* Appendix A):

- 1.) Use for Appraisals, Environmental Review, and Surveys in an amount not to exceed \$60,000. The Funds may only be used in the geographic area whose boundaries are 3<sup>rd</sup> Street, Madison Ave, Second Street, and Walnut Street.
- 2.) Convention Center Expansion Architect’s fees not to exceed 10% of the Construction Costs. As the estimate construction costs are between \$30 million and \$40 million, the architect’s fee may not exceed \$4 million.

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<sup>2</sup> I.C. § 6-9-41-16(a) provides that such an Advisory Commission shall be populated by the following:

- (1) Three (3) members who are owners of retail facilities that sell food or beverages subject to the county food and beverage tax imposed under this chapter appointed by the city and county executive.
- (2) The president of the county executive.
- (3) A member of the county fiscal body appointed by the members of the county fiscal body.
- (4) The city executive.
- (5) A member of the city legislative body appointed by the members of the city legislative body.

As the Steering Committee approved the selection of the architect, and the Advisory Commission issued their written approval of this use of Food and Beverage Tax proceeds, App Ord 19-01 appropriates \$350,000 from the City's Food and Beverage Tax Fund<sup>3</sup> to pay for architectural services. Specifically, App Ord 19-01 pays for Phase I of the Convention Center expansion. Phase I involves the conceptual and design work, a survey, appraisals, environmental work, and related services. The specific costs of Phase I are detailed in a draft *Letter of Agreement* submitted by Schmidt Associates & Convergence. Note while the Letter of Agreement is in draft form, and certain terms are still being negotiated, the cost of the services for Phase I have been negotiated. The scope of Phase I is described as "limited to the expansion and renovation of the Monroe Convention Center, any parking structure required for the expansion, and any related site development."

Phase I costs include:

### **Design Fee**

Phase I Community Engagement	\$58,500
Market Demand Study	\$39,000
Phase 1 Programming and Concept Design	<u>\$98,000</u>
	<b>\$195,500</b>

### **Reimbursables**

Phase I Expense Re-imbursement ( <i>not-to-exceed</i> )	<b>\$19,500</b>
(These are out-of-pocket expenses such as travel, lodging, mileage, subsistence, printing, postage, shipping, development of a 3-D model, among other things.)	

### **Additional Services** (*not anticipated to exceed*)

**\$135,000**

- Survey – topographic and boundary
- Drone Imaging of the Site
- Interior and exterior mobile scanning of building
- Site appraisals
- Environmental Surveys – Phase 1 and 2.

### **PHASE 1 TOTAL:**

**\$350,0000**

*Please see the attached draft Letter of Agreement for more on the scope and project activities of Phase I. As indicated by Deputy Mayor Renneisen in his Memorandum to the Council, representatives of the architectural team will be at the relevant Council meetings to discuss this request.*

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<sup>3</sup> This is a statutorily-mandated fund, one set up by the Controller. I.C. 6-9-41-12

**Item 2:**  
**To Amend Title 10 of the Bloomington Municipal Code**  
**Entitled “Wastewater” (Stormwater Rate Adjustment)**

Ordinance 19-02 would amend Title 10 of the Bloomington Municipal Code entitled “Wastewater” to increase stormwater rates. As the legislation, memos, and rate study indicate, the increase will be in two phases, with the first phase raising the rate from \$2.70 per month for a single-family residential (SFR) user to \$4.32 per month to go into effect on July 1, 2019, and with the second phase raising the rate to \$5.95 per month to go into effect on January 1, 2020 (to coincide with the issuance of bonds for needed infrastructure improvements.

**History of the Stormwater Utility and Fees.** In 1998, the City established a stormwater utility to address unmet stormwater needs. Along with the annual maintenance of stormwater facilities (which had previously been done out of other Wastewater revenues), this utility was intended to take on some large capital projects. First on that list, were the repair and replacement of the five primary stormwater tunnels under downtown Bloomington, all of which were either aging or undersized, or both. Those of you who were here at the time might remember the “Big Dig” and heard or read references to the Jordan River and oddly-named subterranean features like “the Lower Spanker’s Branch, the Upper Spanker’s Branch, the Dunn Branch, and the Wylie Street Culvert.” Several projects related to those century-old artifacts have been completed and all were made possible by a stormwater fee.

This fee is tied to an estimate of the amount of storm run-off generated by users which, in turn, is determined by the amount of impervious surface on the user’s property. At the start, a base monthly rate was applied to single-family residential (SFR) users and that base rate was then multiplied for non-SRF users as a proportion of non-SFR user’s run-off to the SFR run-off (but never resulting in less than the base rate). In 1998, the base rate was \$2.35 per month and in 2003, the rate was increased to \$2.70 per month. No increases have been made since then.

**Rate Study.** According to the memo from Vic Kelson, Director, CBU, the City retained a consultant, London Witte Group, in 2018 to conduct a Rate and Financing Sufficiency Study. This study was to help the City determine “whether the ... rates to be charged ... will generate sufficient cash flows ... (to) enable the Utility to cover its costs of operations and maintenance, proposed debt service, and to make capital improvements/replacements.” The Study is attached and after setting forth comparative balance sheets and income sheets for the past three years (Exhibits A – B), accounting for financing some large capital projects (Exhibits D-F) and providing annual expenditures for extensions and replacements (Exhibit G), and calculating a suitable Debt Coverage Ratio (Exhibit C), it supports a monthly base charge of \$5.95 with an increase in annual revenue (once the second phase has been implemented) of about \$1.7 million. As a matter of comparison, Exhibit I provides a chart of Stormwater fees around the State (from highest to lowest) and indicates this change would move the City’s fees from 22 to 9 out of a total of 23.

**Stormwater Utility Needs.** The materials outline a set of needs for the Utility that led to the proposed rate increase. These include:

- Large projects to be financed by the issuance of ~\$14.1 Million in bonds with a debt service of ~\$1.07 million per year for 20 years. The projects are as follows:
  - Phase III of the renovation to the Jordan River Culvert system (from 4<sup>th</sup> and Grant to 2<sup>nd</sup> and Washington) – which was given a five-year fix in 2017;
  - the Jordan River Inlet near Dunn Meadow at the intersection of 6<sup>th</sup> St. and Indiana Ave. (Jordan River Culvert Enlargement/Replacement); and
  - the portion of the Spankers Branch tunnel that lies beneath 6<sup>th</sup> Street near the Courthouse Square. (Spanker’s Arch);
- Green Infrastructure (at ~\$300,000 per year) – please read the Kelson Memo for more on this initiative and how it will slow and clean stormwater as it moves through the City’s system;
- Annual Drainage System Replacement (at ~\$200,00 per year);
- Reinitiating a neighborhood micro-grant program; and
- Vehicle Replacement (at ~ \$50,000 per year)

**The Ordinance.** The ordinance:

- provides a history of the Utility,
- sets forth the reason for, and steps taken before, proposing this rate increase;
- makes certain findings (in accordance with statute) including that:
  - “the current rates and charges do not produce an income sufficient to maintain the stormwater works property in a sound physical and financial condition to render safe, adequate and efficient service; and
  - the current rates and charges for the use of and service rendered by the stormwater works must be increased in order to provide sufficient revenue to meet such requirements; and
  - the rates and charges set forth herein are nondiscriminatory, reasonable and just and are based upon the cost of providing service to the customers of the stormwater works and will enable the City to meet its legal revenue requirements for the stormwater works;”
- indicates that there will be a public hearing and that the Council caused notice of this hearing to be advertised (which, as a matter of practice, has been done by City Legal); and
- Lastly, amends BMC 10.08.045 by increasing the stormwater fee in two phases (as indicated above) and correcting the formula for determining the rate for non-SFR users.<sup>4</sup>

**Item 3:**

**Ordinance 19-05 - To Amend Title 10 of the Bloomington Municipal Code  
Entitled “Wastewater”**

**(A Substantial Rewriting of Title 10 Following a Review Conducted in Concert with the  
Environmental Protection Agency)**

**Ord 19-05** proposes a substantial rewriting of Title 10 (Wastewater) of the Bloomington Municipal Code (BMC) following a review done in concert with the Environmental Protection Agency (EPA). According to the Memo from Chris Wheeler, Assistant City Attorney, that review was initiated in order to bring the City into compliance with new “categorical pretreatment standards” under 40 CFR 403 (the Clean Water Act). It has taken several years and has entailed

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<sup>4</sup> The current format of the section makes it difficult to discern a fraction with a numerator and denominator.

multiple revisions. Along with those changes, the ordinance also provides a new definition for New food service (in regard to collecting and disposing of fats, oils, and grease [FOG]) and makes various non-substantive changes in the title.

**National Pollutant Discharge Elimination System Permit.** As Wheeler’s Memo notes, the City’s Wastewater Utility includes two wastewater treatment plants that treat water collected by the system before it returns to “the waters of the United States.” The EPA is working with states and localities to assure compliance with the Clean Water Act, which as Wheeler notes “prohibits anybody, including the City from discharging ‘pollutants’ through a ‘point source’ into [those waters].” As part of this process, the EPA issues what’s known as a National Pollutant Discharge Elimination System (NPDES) permit that “contain limits on what [each user as well as the City as a whole] can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health.”

**Changes in Pretreatment Program and Standards – Chapters 10.12, 10.16 & a new Chapter 10.30 of the BMC.** Those limits are implemented through a national “pretreatment program” which, in Indiana, delegates the permitting, administering, and enforcing of discharges into the City’s “publicly owned treatment works” (POTW) to the City. The EPA has recently adjusted the related “pretreatment standards” and has been working with localities to bring local regulations in line with these changes.

For the City, this has involved a review of Title 10 (Wastewater) in concert with the EPA, with a primary focus on Chapters 10.12 (Prohibited Wastewater Discharges)<sup>5</sup> and Chapter 10.16 (Industrial Wastewater Dischargers). In late December, after a very long process, the EPA sent a letter to CBU indicating provisional agreement with the latest draft and giving the City 90 days to adopt the revisions. Please note, that as part of these changes, the enforcement procedures and penalties associated with the pretreatment program have been combined and placed in a new Chapter 10.30 (Enforcement, Penalties and Appeals) at the end of this title.

**Changes to Chapter 10.17 (Food Service Establishments).** As Wheeler’s Memo goes on to note, the pretreatment program is also intended to “control pollutants which pass through or interfere with POTW treatment processes or may contaminate POTW sewage sludge.” One common form of interference<sup>6</sup> is “caused by the discharge ... of Fats, Oils, and Grease (FOG) from food service establishments (FSEs).” To address this problem, the Chapter 10.17 (Food Service Establishments) will be amended to:

- Broaden the circumstances where the installation of a grease interceptor is required;<sup>7</sup> and
- Prohibit the use of garbage disposals in all food service establishments.

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<sup>5</sup> Which, under this ordinance will be renamed as “General Sewer Use Requirements)

<sup>6</sup> The memo cites an EPA statistic that FOGs “from restaurants, homes and industrial sources is the most common cause (45%) of combined sewer overflows( CSOs) and sanitary sewer overflows (SSOs).”

<sup>7</sup> This is done by defining “new food establishment” (which means a food service establishment that is opening for the first time, opening in a new location, or opening under new ownership or a new name”), extending the requirement to “new commercial establishment” located in areas zoned for food service establishments, and to FSEs which cause or contribute to a sanitary sewer overflow.

**Non Substantive Changes.** Along with the substantive changes mentioned earlier in this summary, the ordinance also reframes some sections from paragraph into outline form, standardizes or corrects certain terms, and capitalizes many terms.

**Item 4:**

**Ordinance 19-06 Amending Title 15 of the Bloomington Municipal Code -  
Re: Reducing Fees for Law Enforcement Recordings and Bringing Said Fees into  
Compliance with State Law**

**Ordinance 19-06** makes a technical correction to the fees associated with obtaining police body camera and dash camera recordings. Currently, the Bloomington Municipal Code provides that the cost of obtaining such recording is a flat fee of \$150. However, the Indiana Code provides that the fee may not exceed, “[t]he agency's direct cost of supplying the information in that form. However, the fee for a copy of a law enforcement recording may not exceed one hundred fifty dollars (\$150).” I.C. § 5-14-3-8(g). According to statute “direct cost” means 105% of the cost of the following: 1) the development of a program, if any; 2) the labor required to retrieve the data; and, 3) any medium used for output. I.C. § 5-14-3-2. As relayed by City Attorney Mike Rouker this means that the City can charge for the labor to retrieve the recording and the cost of the disk or drive on which the recording is provided. However, those charges cannot exceed \$150. Rather than stating the fee as a “not to exceed” figure, the current language of the Bloomington Municipal Code states the fee as a flat \$150 one. To comply with statute and recent interpretations thereof, the Bloomington Municipal Code should be amended to remove the flat fee figure.

Rouker points out that a recent opinion of the State’s Public Access Counselor (PAC) invalidated Evansville’s flat fee of \$150 for law enforcement recordings, opining that the flat fee is a cap, but not every request for law enforcement recordings incurs direct costs that equal \$150; in some instances, the direct costs allowed by State statute will be lower than \$150. As the PAC invalidated Evansville’s flat fee, Ordinance 19-06 makes a technical correction to the Bloomington Municipal Code to make clear that the City of Bloomington will only charge for the direct costs associated with providing a law enforcement recording and that cost will not exceed \$150.



## **Committee of the Whole – Summary of Material**

### **Item 1:**

#### **Resolution 19-03 To Extend the Designation of an Economic Revitalization Area, Approve the Statements of Benefits, and Authorize A Period of Abatement for Real and Personal Property Improvements – Re: Properties at 1300 S Patterson Drive (Catalent Indiana, LLC, Petitioner)**

Res 19-03 is a request for a tax abatement on both real and personal property from Catalent Indiana, LLC (“Catalent”). Catalent requests approximately \$2,450,000 in abated taxes over a ten-year period.

#### **On Catalent**

[Catalent Pharma Solutions](#) is a New Jersey-based drug development, delivery and supply company. In October 2017 Catalent purchased Cook Pharmica for \$950 million. According to material submitted by the City’s Economic and Sustainable Development Department, Catalent retained Cook Pharmica’s employees. Currently, Catalent Indiana employs 839 employees. The facility is located at 1300 South Patterson Drive.

#### **On Previous and Current City Incentives for Catalent**

Since 2003, Cook Pharmica has received a number of economic incentives from the City. These incentives include: an Enterprise Zone Investment Deduction, reimbursements from the Community Revitalization Enhancement District (CRED), a ten-year tax abatement on both real and personal property in 2004, and a ten-year abatement on personal property in 2015. These incentives run with the land and any active incentives accrue to Catalent. *Please see* the Memo submitted by Bryan Payne, Assistant Director for Small Business Development, Economic and Sustainable Development Department for a detailed description of previously- granted incentives for this property.

#### **Proposed Project**

The project will be built in two phases. Both phases involve improvements to real property and the installation of personal property and Catalent is requesting abatements for both real and personal property. Phase I expands Catalent’s packaging capacity. Phase II expands Catalent’s drug product sterile filling capacity. According to Petitioner’s application, Catalent will start work on the Project in June 2019, will complete Phase I by 2020 and Phase II by 2022. According to the memo from Payne, “[t]hese enhancements will nearly double the Bloomington facility’s filling capacity, expand its packaging capabilities, and add new device assembly capabilities.” The phases are described below.

**Phase I – Expansion of Packaging Capacity (Completion by 2020)**

Phase I builds out 15,000 square feet of manufacturing space. The expansion is intended to grow the company’s packaging capacity and add new capabilities to support specialized device assembly. According to Petitioner’s application, this expansion

will be accomplished by the purchase and installation of a Flexible top load cartooning machine, an automated Auto-injector assembly machine, and Syringe assembly equipment. A new Quality Control laboratory will also be constructed to support the expanded production.

See rendering in Petitioner’s application.

**Phase II – Expansion of Drug Product Sterile Filling Capacity (Completion by 2022).**

According to Petitioner’s application, this filling capacity will support commercial launches and clinical development. This expansion will include the expansion of the finish/fill site by 79,000 square feet. Additionally, according to Petitioner’s application:

A high-speed flexible vial line, utilizing both ready-to-use (RTU) components and bulk filling, will be installed along with a high-speed flexible syringe/cartridge line, and a fully automated vial inspection machine. This investment will nearly double the site capacity with over 460 additional filling days.

See rendering in Petitioner’s application.

**The Requested Abatement**

The above improvements are estimated at \$125 million - \$40 million in real estate improvements and \$85 million in personal property improvements. Catalent is requesting a ten-year tax abatement on both the real and personal property improvements involved in Phase I and Phase II.

The requested abatement steps down each year, from 100% in Year 1 to 5% in Year 10.

Year 1:	100%
Year 2:	95%
Year 3:	80%
Year 4:	65%
Year 5:	50%
Year 6:	40%
Year 7:	30%
Year 8:	20%
Year 9:	10%
Year 10:	5%

### ***Increase in Assessed Valuation and Taxes Abated***

In return, Catalent estimates that the proposed real property improvements and personal property investments will increase the assessed value by \$44 million (\$10 million increase to real property; a \$34 million increase for person property). According to the tax abatement calculations provided in Payne's memo, given the projected improvements to real and personal property, Catalent's projected tax liability without the abatement would be an estimated \$4,647,181. If the abatements are approved, Catalent's tax liability would be \$2,196,397, making the total amount abated for the life of the abatements approximately \$2,450,784. Please see the "Tax Abatement Calculations" in Payne's memo for further details.

### ***Jobs Created***

Catalent currently employs 839 employees and has a payroll of ~\$43.9 million. According to the Petitioner's Statement of Benefits, the proposed Phase I and Phase II projects would add 200 new jobs for a payroll increase of ~\$13.3 million. The average salary would be \$66,650/annum plus benefits and the lowest starting full time job for the newly-created positions would be \$18.42/hour.<sup>8</sup>

### **Council Review of Tax Abatement Petitions**

The process of granting a tax abatement is informed by both State statute and local rules. As you are aware, State law outlines the minimum requirements associated with an abatement of property taxes. Locally, we promulgate guidelines that provide further guidance and provide additional criteria an applicant must meet to be eligible for an abatement. Both are discussed below.

### **Indiana Code**

State statute allows cities, towns, and counties to abate the incremental increase in the assessed valuation of certain real and personal property resulting from applicable investments. I.C. 6-1.1-12.1 *et seq.* Under State statute, the Council is "designating body," the entity responsible for the approval of tax abatements. Generally, the designating body may provide for an abatement between one and ten years. For the designating body to approve an abatement such as this one, it is required by statute to take the following four actions:

- Authorize an Economic Revitalization Area (Res 19-03)
- Approve a Tax Abatement Schedule (Res 19-03)
- Review and Approve the Petitioner's Statement of Benefits (Res 19-03)
- Approve a Confirmatory Resolution (Res 19-06, scheduled for consideration on March 6, 2019)

Attached to each of these actions are distinct criteria or factors the Council must weigh in making its decision. These factors are discussed below.

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<sup>8</sup> For its current workforce, Catalent's lowest hourly wage is \$14.42 and its median hourly wage is \$24.52.

### **Economic Revitalization Area (Res 19-03)**

In order to be eligible for a tax abatement, the site/project in question must first be declared an "Economic Revitalization Area" (ERA) by the designating body. An ERA is an area within the corporate boundaries "which has become undesirable for, or impossible of, normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property." I.C. § 6-1.1-12.1-1(1).

Please note that the Council designated this parcel an ERA with [Resolution 15-06](#). That resolution provided that the ERA designation for this parcel was to expire on December 31, 2028 unless extended by the Council at the recommendation of the Economic Development Commission. As indicated in the attached resolution, the EDC has made this recommendation. [Resolution 19-03](#) extends the ERA designation for this parcel five years to December 31, 2033.

In determining whether to designate an area as an ERA and whether a tax abatement should be granted, state statute requires that those determinations be based on the following:

(1) whether the estimate of the value of the redevelopment or rehabilitation is reasonable for projects of that nature.

→ *Again, petitioner will make a capital investment of at least \$125 million (\$40 million in real property improvements and \$85 million in personal property improvements). The total AV of both real and personal property is expected to increase by \$44 million. (The current AV of the real property is \$43,828,800; after the improvements, the AV is expected to be \$53,828,800. The current AV of the personal property is \$55,376,790; after the improvements, the AV is expected to be \$89,376,790.)*

(2) whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

→ *The petitioner will create 200 new full-time jobs with this proposal.*

(3) whether the estimate of the annual salaries of those individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

→ *The above-cited employees would make an average salary of \$66,650 plus benefits. The lowest starting full time job for the newly-created positions would be \$18.42. Any recipient of an abatement is required to pay a Living Wage.*

(4) whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.

→ *The petitioner's application and Statement of Benefits indicate that it will use LEED standards and aims to reduce overall energy usage by 15%.*

(5) whether the totality of benefits is sufficient to justify the deduction.

→ *This is a balancing test wherein Council weighs the benefits against costs.*

I.C. § 6-1.1-12.1-3 (b)

Notably, the above are *required* findings. Statute requires that Council may not designate an ERA or approve an abatement *unless* the above findings are made in the affirmative. In Payne's memo to Council, he relays that the estimates and benefits provided by the Petitioner in the application and the Statement of Benefits "are reasonable and the benefits, as outlined in the application packet and this memo, are sufficient to justify a tax abatement of the recommended term and schedule." Res 19-03 makes these required findings.

### ***Period of Abatement and Tax Abatement Schedule (Res 19-03)***

Statute provides that the designating body must set an abatement schedule for a business situated in an ERA. I.C. § 6-1.1-12.1-17. The abatement schedule must specify the percentage amount deduction for each year. Statute generally allows an abatement for up to ten years, with the potential for full abatement each year. Again, proposed here is a 10-year abatement at a stepped-down rate each year.

In establishing an abatement schedule, statute provides that the Council base such a schedule on the following factors:

- The total amount of the taxpayer's investment in real and personal property.  
→ *The petitioner proposes to invest \$125 million with this project. .*
  - The number of new full-time equivalent jobs created.  
→ *The petitioner indicated that it will create 200 new full-time jobs.*
  - The average wage of the new employees compared to the state minimum wage.  
→ *Any new employees must make the City's Living Wage. Petitioner represents that the lowest hourly wage for the full-time positions is \$18.42/hour.*
  - The infrastructure requirements for the taxpayer's investment.  
→ *The application indicates that no City expenditures (e.g., public infrastructure) will be required.*
- I.C. § 6-1.1-12.1-17 (a).

Statute does not provide guidance on the relative weight of each of these factors. Instead, it is likely that the General Assembly contemplated that all these factors be considered in concert, as a whole.

### ***Review and Approve the Petitioner's Statement of Benefits (Res 19-03)***

Statute requires that the designating body review the Petitioner's Statement of Benefits (SB-1), a State-prescribed form. With the approval of the designating body, the statement of benefits may be incorporated in a designation application. I.C. § 6-1.1-12.1-3. Res 19-03 so incorporates.

***Additional Reasonable Requirements.*** Statute authorizes the City to impose additional, reasonable requirements on the project beyond those listed in the Statement of Benefits, as long as those benefits are cited in the resolution. Failure to make reasonable efforts to comply with these requirements, like the commitments in the Statement of Benefits, may become a basis for rescinding the abatement. These additional requirements outlined in Res 19-03 include:

- the capital investment for equipment must total \$85 million and the capital investment for real property must total \$40 million;

- the land and improvements must be developed and used in a manner that complies with local code;
- the Project must be completed before or within twelve months of the completion date as listed on the application;
- Petitioner must comply with all reporting requirements in the manner described by Indiana Code, Bloomington Municipal Code, and by the Memorandum of Understanding.

Note that with [Ord 97-06](#), the Council gave the Economic Development Commission (EDC) the responsibility for making recommendations regarding the foregoing to the Council. The EDC voted to favorably recommend this project to the Council on 16 January 2019 via EDC Resolutions 19-01 and 19-02, attached hereto.

## Local Requirements

Locally, the City promulgates additional guidelines, *Tax Abatement Program: General Standards* ([linked here](#) and included in this packet). Revised in 2011, the *Standards* outline evaluative criteria for considering a tax abatement petition and also outline certain factors that exclude petitioners and projects from consideration.<sup>9</sup> The *Standards* direct that, “[e]ach project is reviewed on its own merits, and the effect of each project on the revitalization of the surrounding areas and employment is considered.” p. 2. Basic eligibility is achieved by demonstrating the creation of full-time, permanent living-wage jobs and the creation of capital investment as an enhancement to the tax base.

The Standards also outline other evaluative criteria to be used in consideration of tax abatement projects. The criteria pivot on whether the project makes a “significant positive contribution to overall economic vitality and quality of life in the City of Bloomington.” p. 3. The *Standards* outline four primary additional criteria, but allow for petitioners to enumerate other contributions to local economic vitality that may not fit neatly within those categories. The following reflects the responses that petitioner provided in its satisfaction of those criteria as reflected in the petitioner’s application.

- **Quality of Life, Environmental Stewardship, and/or Sustainability**

The petitioner’s application indicates that the projects will “employ green building standards according to Leadership in Energy and Environmental Design (LEED).” The petitioner states that it hopes to reduce overall energy usage by 15%.

- **Affordable Housing**

- **Community Service**

- **Community Character**

Payne’s memo states that “[t]he project takes an otherwise undesirable site adjacent to a flood plain and develops an attractive building expansion.”

## **The Process: Declaratory and Confirmatory Resolutions**

Please note that most usually, Council is accustomed to considering tax abatement petitions that implicate three distinct pieces of legislation: 1) a declaratory resolution which makes certain statutory findings and assertions as required by statute; 2) one which designates the area as one warranting targeted economic development (EDTA), a designation that is required for abatements on most residential projects, and; 3) one which confirms the statutory findings and assertions made by the declaratory resolution. As this is not a residential project, no EDTA finding is necessary. Recall further that statute makes a number of development projects types ineligible for tax abatements.<sup>10</sup>

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<sup>9</sup> Petitioners should not hold an outstanding obligation or debt to, be in default or arrears with, or be in litigation against, the City. Projects should not be commenced prior to final approval; involve the demolition or removal of certain historic structures; require major public infrastructure improvements at additional cost to the City; or be inconsistent with the City’s long range plans for the area.

<sup>10</sup> Such uses include golf courses, country clubs, massage parlors, tennis clubs, racetracks, suntan facilities, hot tub facilities, certain sports facilities, certain retail facilities, and, as recounted above, certain residential facilities. I.C. 6-1.1-12.1-3 (e)

Please note further that the IC § 6-1.1-12.1-2.5 requires that the Council hold a legally-advertised public hearing before adopting Res 19-03. That public hearing is scheduled for **Wednesday, 06 March 2019**. At that meeting, the Council is scheduled to consider Res 19-04, confirming Res 19-03. In accordance with statute, the City Clerk must not only provide the relevant notice, but also file a copy of the notice and information contained in the Statement of Benefits with officials responsible for fixing budgets, tax rates, and tax levies for all of the taxing units within the City's jurisdiction.



**NOTICE AND AGENDA  
BLOOMINGTON COMMON COUNCIL  
REGULAR SESSION AND COMMITTEE OF THE WHOLE  
6:30 P.M., WEDNESDAY, 06 FEBRUARY 2019  
COUNCIL CHAMBERS  
SHOWERS BUILDING, 401 N. MORTON ST.**

**REGULAR SESSION**

**I. ROLL CALL**

**II. AGENDA SUMMATION**

**III. APPROVAL OF MINUTES** 09 January 2019 – Organizational Meeting

**IV. REPORTS** (A maximum of twenty minutes is set aside for each part of this section.)

- 1. Councilmembers**
- 2. The Mayor and City Offices**
- 3. Council Committees**
- 4. Public\***

**V. APPOINTMENTS TO BOARDS AND COMMISSIONS**

**VI. LEGISLATION FOR SECOND READING AND RESOLUTIONS**  
*None*

**VII. LEGISLATION FOR FIRST READING**

1. Appropriations Ordinance 19-01 To Specially Appropriate from the Food and Beverage Tax Fund Expenditures Related to the Convention Center Expansion (Appropriating Funds from the Food and Beverage Tax Fund)
2. Ordinance 19-02 To Amend Title 10 Of the Bloomington Municipal Code Entitled “Wastewater” (Stormwater Rate Adjustment)
3. Ordinance 19-05 To Amend Title 10 of the Bloomington Municipal Code Entitled “Wastewater” (A Substantial Rewriting of Title 10 Following a Review Conducted in Concert with the Environmental Protection Agency)
4. Ordinance 19-06 Amending Title 15 of the Bloomington Municipal Code – Re: Reducing Fees for Law Enforcement Recordings and Bringing Said Fees into Compliance with State Law

**VIII. CONTINUATION OF CONSIDERATION OF RESOLUTION 19-01- TO ADOPT THE CITY’S TRANSPORTATION PLAN AS AN AMENDMENT TO THE CITY’S COMPREHENSIVE PLAN**

**A. REVIEW OF TRANSPORTATION PLAN**

- 1) CHAPTER 4: RECOMMENDED PROJECTS (and Portions of the Appendices where Applicable)**
  - 4.1 New Roadway Connection
  - 4.2 Multimodal Projects
- 2) CHAPTER 5: NEXT STEPS FOR KEY RECOMMENDATIONS (and Portions of the Appendices where Applicable)**
  - 5.1 Overall Approaches
  - 5.2 Policy Recommendations
- 3) CHAPTER 6: CONCLUSION (and Portions of the Appendices where Applicable)**

*Note: Consideration of Resolution 19-01 will occur next on 27 February 2019 as part of a continuing Special Session.*

*(Over)*

\* Members of the public may speak on matters of community concern not listed on the agenda at one of the two *Reports from the Public* opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

Posted: February 1, 2019

**IX. ADDITIONAL PUBLIC COMMENT\*** (A maximum of twenty-five minutes is set aside for this section.)

**X. COUNCIL SCHEDULE**

**XI. ADJOURNMENT**

*(To be immediately followed by a)*

**COMMITTEE OF THE WHOLE**

**Chair: Cm. Chris Sturbaum**

1. Resolution 19-03 To Extend the Designation of an Economic Revitalization Area, Approve the Statements of Benefits, and Authorize Period of Abatement for Real and Personal Property Improvements – Re: Properties at 1300 S Patterson Drive (Catalent Indiana, LLC, Petitioner)

Asked to Attend:

- Bryan Payne, Assistant Director Small Business Development, Economic and Sustainable Development Department
- Representative of Petitioner

\* Members of the public may speak on matters of community concern not listed on the agenda at one of the two *Reports from the Public* opportunities. Citizens may speak at one of these periods, but not both. Speakers are allowed five minutes; this time allotment may be reduced by the presiding officer if numerous people wish to speak.

## **APPROPRIATION ORDINANCE 19-01**

### **TO SPECIALLY APPROPRIATE FROM THE FOOD AND BEVERAGE TAX FUND EXPENDITURES RELATED TO THE CONVENTION CENTER EXPANSION (Appropriating Funds from the Food and Beverage Tax Fund)**

- WHEREAS, the Monroe County Convention Center (“Center”) building was built in 1923 for the Graham Motor Sales company and converted to a convention center in 1991; and
- WHEREAS, in 2012, the Center was upgraded and remodeled -- but not enlarged -- and its current size has limited its ability to accommodate many groups desiring to hold events in Bloomington; and
- WHEREAS, Monroe County (the “County”) and the City of Bloomington (the “City”) are collaborating on a project to expand the Center (the “Project”), and have agreed that the Project will be primarily funded through the use of certain county excise tax revenues provided for under Indiana Code § 6-9-41-0.3, et seq. (“Food and Beverage Tax”); and
- WHEREAS, the Food & Beverage Tax was passed by the County in 2017 and has been continually collected since February 1, 2018, with the proceeds for the City transferred by the County Auditor being deposited into the Food and Beverage Tax City Fund, Number 152 (the “Fund”), in accordance with Indiana Code § 6-9-41-12; and
- WHEREAS, the County and City entered into a Memorandum of Agreement dated October 12, 2018 regarding selection of an architect to oversee the Project, and the MOU allocated explicit responsibility to the City for “Contracting and the payment for appropriate expenses for the Architect;” and
- WHEREAS, the architect has now been chosen and is ready to begin the first phase of the Project (“Phase I”), which involves conceptual and design work, a survey, appraisals and environmental work, and such other related services as may be identified during Phase I (“Phase I Costs”); and
- WHEREAS, the City therefore desires to have funds appropriated from the Fund in a not-to-exceed amount to pay for the Phase I Costs not included in the 2019 Civil City adopted budget;
- WHEREAS, the City has estimated a not-to-exceed amount for this appropriation, based on the architect’s cost estimate attached to this ordinance; and
- WHEREAS, the Food and Beverage Tax Advisory Commission is established under Indiana Code § 6-9-41-16 and is charged with evaluating and recommending to the Common Council the appropriateness of expenditures from the Fund; and
- WHEREAS, pursuant to Indiana Code § 6-9-41-16(b), on January 16, 2019, the Bloomington Common Council requested from the Food and Beverage Tax Advisory Commission the Commission’s recommendations concerning the expenditure of food and beverage tax funds; and
- WHEREAS, on January 22, 2019, the Food and Beverage Tax Advisory met in public session and approved the use of monies in the Fund for the Phase I Costs; and
- WHEREAS, pursuant to Indiana Code § 6-9-41-16(b), the majority of the members of the Food and Beverage Tax Advisory Commission have issued their written approval (Exhibit A) of the expenditures authorized herein;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. For the expenses of said municipal corporation the following additional sums of money are hereby appropriated and ordered set apart from the fund herein named and for the purposes herein specified, subject to the laws governing the same:

	AMOUNT REQUESTED
<b>Food and Beverage Tax Fund</b>	
Classification 3 – Services and Charges	\$ <u>350,000.00</u>
Total Food and Beverage Tax Fund	\$ <u>350,000.00</u>
<b>Grand Total</b>	<b>\$ <u><u>350,000.00</u></u></b>

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

SYNOPSIS

This ordinance appropriates funds from the Food and Beverage Tax Fund for expenditures related to the Convention Center expansion project, including expenditures for Phase I of the project, which involves conceptual and design work, a survey, appraisals and environmental work, and such other related services as may be identified during Phase I.

Food and Beverage Advisory Commission  
January 22, 2019  
Approved Requests for Funding.

The Advisory Commission received requests from the County Commissioners and City Council for use of food and beverage tax funds. Each request was approved by the respective Legislative Bodies on January 16<sup>th</sup>.

The Advisory Commission approved recommending the following fund use from the County Food and Beverage Tax funds:

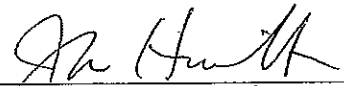
1. Use for Appraisals, Environmental Review, and Surveys in an amount not to exceed \$60,000. The funds may only be used in the geographic area whose boundaries are 3<sup>rd</sup> Street, Madison Ave, Second Street, and Walnut Street.

The Advisory Commission approved recommending the following fund use from the City Food and Beverage Tax funds:


1. Use for Appraisals, Environmental Review, and Surveys in an amount not to exceed \$60,000. The Funds may only be used in the geographic area whose boundaries are 3<sup>rd</sup> Street, Madison Ave, Second Street, and Walnut Street.
2. Convention Center Expansion Architect's fees. The amount of the fee shall not exceed 10% of the Construction Costs. The estimated Construction Costs are between \$30 million and \$40 million. So the amount will not exceed \$4 Million.

So Approved this 22 Day of January, 2019.

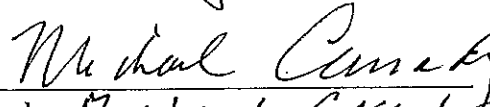
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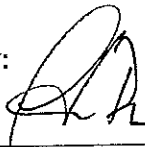
  
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By:

  
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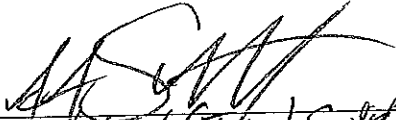
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BLOOMINGTON, INDIANA

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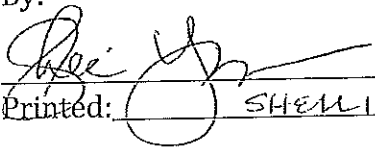
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## Office of the Mayor

## Memorandum

**To:** Members of the City of Bloomington Common Council

**From:** Mick Renneisen, Deputy Mayor

**Date:** January 28, 2019

City Administration requests your support of Ordinance 19-01 requesting funding from the Food & Beverage Tax proceeds to contract with the selected architectural firm team, Convergence/Schmidt Associates, for design services related to the expansion of the existing convention/civic center ("Convention Center").

In the 27 plus years that the current Convention Center has been in operation, it has generated \$256M in economic impact. The Convention Center holds an average of 500 events, both civic and convention-related, each year. Bloomington/Monroe County is the 2<sup>nd</sup> most desirable location for conventions in the state; however, the Convention Center as it exists today has the least square footage of meeting space among Indiana convention centers. The Convention Center and Visit Bloomington staffs indicate that more than 200 organizations in the past 10 years have been unable to hold their events at the existing Convention Center due to this lack of sufficient meeting space.

In September 2017, the City Council passed resolution 17-38 urging the County Council to pass a 1% Food and Beverage tax as permitted under I.C. 6-9-41-0.3 *et seq.*, the Monroe County Food and Beverage Tax. This legislation was adopted by the State Legislature in 2009 at the request of local officials specifically to "finance, refinance, construct, operate and maintain a convention center, conference center, or related tourism or economic development projects." As part of Resolution 17-38, the City pledged its portion of the Food and Beverage tax toward the construction and operation of an expanded Convention Center, and this pledge was confirmed in a Letter of Intent followed by a fully executed Memorandum of Understanding ("MOU") with the County.

In December 2017, the County Council adopted the 1% Food and Beverage Tax and collection began in February 2018. The distribution and allocation of the funds is directed by the statute and further delineated in the MOU. Accordingly, proceeds from February through the end of December 2018 totaled \$2,558,850.56 with 90% of the collection, \$2,247,037.07, being deposited into the City's Food and Beverage Tax Fund and 10% of the collection, \$311,813.50, being deposited into the County's Food and Beverage tax fund.

The MOU also called for a nine-person Steering Committee, comprised of four Mayoral appointed city representatives, four county appointed representatives and one joint appointment, to recommend a preferred architectural firm to design the expanded civic/convention center. Eight firms responded to a Request for Qualifications that was issued in May 2018. One firm later removed its name from consideration, and the Steering Committee met with the remaining seven architectural firms over the course of several months. The initial group of seven firms was narrowed to four firms by consensus of the members of the Steering Committee. As per the process stipulated in the MOU that the Steering Committee's

recommendation had to be approved by a majority of the four elected officials on the Committee, the recommendation of Convergence/Schmidt Associates was forwarded for consideration to Mayor Hamilton, Commissioner Barge, County Councilmember Munson and City Councilmember Sturbaum, for a final decision. That group approved the Steering Committee's recommendation of the architectural firm Convergence/Schmidt Associates at a meeting on December 14, 2018.

Having agreed on an architect, the City and County then turned to the process for approving the use and expenditure of the food and beverage tax proceeds to fund the design phase (Phase I) of the project. As required in I.C. 6-9-41-16, a Food & Beverage Advisory Commission was established, comprised of: three members of retail facilities subject to the tax, the President of the County Commissioners, a member of the County Council appointed by the Council, the Mayor, and a member of the City Council appointed by the Council. By statute, the Commission must recommend any proposed use of food and beverage tax proceeds to the legislative body that would appropriate the funds. The Food and Beverage Advisory Commission met on January 22, 2019 and recommended the use of funds from the City's Food and Beverage Tax Fund for the services of the architectural firm. (See attached authorization.) The next and final step is now for the City Council to appropriate those funds.

The City administration is therefore requesting your approval of ordinance 19-01 to pay for the items listed below related to the expansion of the existing convention/civic center. The total request is a not to exceed amount of \$350,000. Attached is a Letter of Agreement detailing the expenses and scope of work indicated below.

- Design fees including Market Demand Study, Phase I Programming and Concept Design and Phase I Community engagement = \$195,500
- Reimbursables = \$19,500
- Additional Services = \$135,000
  - Survey – Topographic and Boundary
  - Site Appraisals
  - Environmental Surveys
  - Drone Imaging of the site
  - Interior and exterior Mobile Scanning of Convention Center Building

Representatives of the architectural team, as well as City staff, are happy to answer any questions you may have.

Sincerely,

Mick Renneisen

Deputy Mayor



Date: 01/17/2019

Food and Beverage Tax Distribution				
2018 Period	Amount Collected	City (90%)	County (10%)	
Feb/March	\$ 89,785.72	\$ 80,807.15	\$	8,978.57
April	\$ 225,752.33	\$ 203,177.10	\$	22,575.23
May	\$ 307,318.54	\$ 276,586.69	\$	30,731.85
June	\$ 210,844.44	\$ 189,760.00	\$	21,084.44
July	\$ 267,312.88	\$ 240,581.59	\$	26,731.29
August	\$ 253,550.69	\$ 228,195.62	\$	25,355.07
September	\$ 232,770.31	\$ 209,493.28	\$	23,277.03
October	\$ 396,284.26	\$ 356,655.83	\$	39,628.43
November	\$ 273,129.38	\$ 245,816.44	\$	27,312.94
December	\$ 302,102.01		\$	86,138.64
December Settlement Number		\$ 215,963.37	to be paid 1-18-2019	
Year to Date 2018 Total	\$ 2,558,850.56	\$ 2,247,037.07	\$	311,813.50

399 Payers (with several payers on multiple entities)



**SCHMIDT**  
ASSOCIATES

January 25, 2019

Hon. John Hamilton, Mayor  
City of Bloomington  
401 North Monroe  
Bloomington, IN 47404

Re: Letter of Agreement – Bloomington-Monroe County Convention Center  
Expansion

Dear Mayor Hamilton:

We are pleased to provide this Letter of Agreement to provide Architectural and Engineering Services for a major expansion to the Monroe County Convention Center. By this Letter and subject to the terms and conditions contained herein The City of Bloomington, (Owner) authorizes Schmidt Associates, Inc. & Convergence Design with subconsultants, (Architect/Engineer) to undertake Architecture and Engineering Services. Direction will be provided by Mick Renneisen, the Owner's representative.

#### **TEAM COMPOSITION**

Schmidt Associates and its subconsultants will serve as the Design Team for this project. Convergence Design will serve as lead subconsultant for convention center planning and design with Schmidt Associates as the Project Manager and Architect of Record. Other subconsultants are as defined below:

- BRCJ (Bloomington): Civil Engineering, Traffic Consulting, Surveying
- Reitano Design (Indianapolis): Food Service Consulting
- IMEG (Indianapolis): Mechanical, Electrical, Technology, Plumbing and Fire Protection Engineering; Acoustical and Audio-Visual Consulting
- Cornerstone PDS (Indianapolis): Landscaping and Urban Design
- Walter P Moore (Houston, Kansas City): Structural Engineering, Parking Consultant
- Hunden Strategic Partners (Chicago): Market Demand Analysis

#### **DESCRIPTION OF SERVICES**

The scope for this project will be divided into two phases.

- Phase 1 of this Project will consist of Community Engagement, Market Demand Analysis, Programming, and Concept Design Phase.
- Phase 2 of this Project will consist of customary Architecture and Engineering Design services required for design, bidding, permitting and construction of the project. Upon completion of Phase 1, an AIA Agreement (as appropriate for the selected construction methodology) shall be executed for Phase 2.

415 Massachusetts Avenue  
Indianapolis, IN 46204  
317.263.6226  
317.263.6224 (fax)  
[www.schmidt-arch.com](http://www.schmidt-arch.com)

#### **Principals**

Ron Fisher, AIA, LEED AP  
Wayne Schmidt, Hon.D., FAIA  
Sarah Hempstead, AIA, LEED AP  
Desma Belsaas, AIA, LEED AP  
Kevin Shelley, AIA, LEED AP  
Brett Quandt, CDA  
Lisa Gomperts, FAIA, LEED AP  
Anna Marie Burrell, AIA, RID  
Tom Neff, AIA, RID, LEED AP  
Kyle Miller, PE, LEED AP  
Ben Bain, CPSM  
Eric Broemel, PE, CEM  
Steve Schaecher, AIA, LEED AP

#### **Associates**

Steve Alspaugh, AIA, LEED AP  
Ryan Benson, AIA  
Duane Dart, AIA, CMQ/OE, LEED AP  
Craig Flandermeyer, RLA, LEED AP  
Jim Heinzelman  
Greg Hempstead, AIA, LEED AP  
Cindy McLeod, AIA  
Megan Scott, CPSM  
Charlie Wilson, CPD, LEED AP  
Mary Ellen Wolf, AIA, LEED AP  
Liming Zhang, RLA, CPESC, LEED AP

#### **Registered Professionals**

Brad Brutout, AIA  
Asia Coffee, IIDA, RID  
Gabe Currier, PE, LEED AP  
Matt Durbin, CTS, MCSE  
Brandon Fox, AIA  
Laura Hardin, IIDA, RID  
Allen Jacobsen, PE  
Eddie Layton, AIA, LEED AP  
Robin Leising, CSI, CCA  
Phil Medley, AIA, PE  
Tom Ning, RA  
Joe Redar, AIA  
Jeff Reed, PE  
Parveen Tai, MBA, PHR, SHRM-CP  
Chuck Thompson, CSI, CCS  
James Walde, PE



## **PROJECT SCOPE**

The Expansion of the Monroe County Convention Center has a total project Budget of \$30M for this project. Future phases may be outlined as part of this master planning phase but are not anticipated to move forward at this time. A brief description of Phase 1 tasks is as follows:

### **Extent of Project Scope for Phase 1**

Design Team responsibility is limited to the expansion and renovation of the Monroe Convention Center, any parking structure required for the expansion, and any related site development. Because of the conceptual nature of this Phase 1 work, Design Team will also consider in its initial planning and concept work:

- Most appropriate location for a new convention hotel adjoining or attached to the convention center
- Potential expansion sites that may or may not be on land currently owned by the City or County
- Potential parking (structured or on-grade) to support the project
- Potential locations for supportive development to enhance quality of life and create connection between the convention center and downtown Bloomington and/or the B-Line Trail

While the above listed items will be considered in this Phase, they may not be included in the Phase 2 project scope of the Design Team.

### **Phase 1 Activities**

Phase 1 will be comprised of three primary components: Community Engagement, Market Demand Analysis, and Programming/Concept Development.

#### **Community Engagement**

Design Team will conduct a series of activities to engage community stakeholders regarding the Project. Activities to be performed during this step include:

- Meet with Client and Steering Committee to gain a full understanding of the project goals and known constraints.
- Engage with community stakeholders, to be identified by Client, to gain understanding of each stakeholder's interest in and concerns about the convention center expansion. Such engagement will be in the form of:
  - Community gatherings open to all interested persons
  - Facilitated large group discussions
  - Facilitated small group discussions
  - Individual interviews
- Anticipate 3 consecutive days of interactive Community Engagement activities including workshops, open houses, and public forums utilizing a variety of tools including interactive polling, writing wall, mapping wall, blog, and group discussion.



## Market Demand Analysis

Subcontractor Hunden Strategic Partners (HSP) will provide the following Market Demand Analysis to assess market demand and economic feasibility of the proposed center expansion and new hotel as follows:

- **Kickoff, Project Orientation and Interviews.** In order to understand conditions in the market and key stakeholder opinions, HSP will meet with the Client to confirm the goals of the study and other contextual issues related to the project. HSP will review available data related to the project, identify contacts and resources necessary to ensure complete review and assessment of critical issues, and perform Client and stakeholder interviews and site tours.
- **Economic, Demographic and Tourism Analysis.** HSP will evaluate Bloomington's position as an economic center of activity as well as a destination for overnight visitors. HSP will summarize key demand generator trends and comment on the overall growth prospects for the market. This analysis will provide a realistic assessment of the area's strengths, weaknesses, opportunities and threats (SWOT). As HSP has performed multiple studies of the Bloomington market, much of this task will involve updating previous data.
- **Project Profile.** HSP will tour the Monroe County Convention Center the surrounding demand generators in Bloomington to understand the current offerings and needs, especially any that have changed recently. Historical attendance and financials will be profiled, and potential future gains will be identified.
- **Convention and Meeting Industry Analysis; Trends.** HSP will assess industry trends by conducting a thorough review of the existing convention and meetings, conference and convention market, its performance and potential for expansion of the market in Bloomington.
- **Convention and Meetings Market Analysis, Including Competitive Facilities.** In order to further analyze the marketability of expanded meeting facilities, HSP will update the previous analysis of the facilities that serve the meetings/event market in Bloomington and the surrounding region. HSP will compare them as part of a comparable set selected for Bloomington. The analysis will ultimately lead to recommendations for the proposed Project.
- **Comparable Facility Case Studies.** HSP will review various similar projects developed in the U.S. in the last several years, as well as discuss those under construction or in development (or relevant competitors). HSP will focus on those in markets with similar characteristics to those of Bloomington. Relevant facilities will be profiled, and implications discussed.
- **Meeting Planner Interviews and Surveys.** HSP will conduct in-depth interviews and surveys via telephone and online with meeting planners from around the U.S. HSP will analyze the



markets that commonly use convention centers, such as those above, and will assess, based on the comps, interviews and surveys, how the proposed expansion will penetrate the market.

- **Headquarter Convention Hotel Analysis & Recommendations.** HSP will profile the convention hotel package for the competitor facilities, as well as what would be expected as a hotel package, including the largest headquarters hotel, for the proposed expanded convention center. HSP will also profile how these deals have been developed and funded in other markets.
- **Local Hotel Market Analysis.** In this task, HSP will analyze the existing local hotel supply and interview management to determine how an expanded convention center development impacts their business. This task will determine if there are opportunities for additional rooms with any future development, or if the supply of rooms is sufficient to support a new facility.
- **Demand and Financial Projections.** In this task, HSP will determine how the market will absorb any recommended expansion to the Monroe Convention Center, providing a ten-year performance projection. HSP will also provide a net operating income statement incorporating the operating revenues and expenditure as to arrive at a projected surplus or loss, which may or may not require an ongoing subsidy. A similar analysis will be completed for any recommended hotel(s). HSP will determine how the market will absorb the recommended hotel(s) over time, providing a ten-year performance projection for each, including occupancy, rate and Revenue per Available Room (RevPAR).
- **Economic, Fiscal and Employment Impact Analysis.** HSP will conduct an analysis to determine the direct, indirect and induced impacts, including the tax revenues that are generated by projected visitors to the expanded facilities. Based on the above analysis, a projection of net new direct spending will be tabulated. From the direct spending figures, further impact analyses will be completed, including indirect impacts, induced impacts, fiscal impacts and employment impacts.

### **Programming and Concept Development**

Based on knowledge gained during the Community Engagement task and informed by the Market Demand Analysis, the Design Team will develop a preliminary program outline and conceptual design for the district and the convention center expansion. Subtasks to be performed during this step include:

- Attend scheduled project meetings with appropriate personnel to provide early and ongoing input with respect to:
  - Project Cost
  - Project Timeline
  - Overall Project Scope
  - Project Quality
- Design Team will perform site visit/evaluation(s), inclusive of gathering available boundary and topographic information.



- Design Team will study grades and site utility availability.
- Articulate the relationships of surroundings, including natural and manmade structures.
- Design Team will acknowledge understanding of project-related requirements, including permitting and required reviews.
- Design Team will facilitate a planning charrette to determine the optimal arrangement of elements (see Project Scope above) on the Project site.
- Design Team will create a series of conceptual designs for the Project, including an overall district plan, site plan, floor plan diagrams, computer massing studies, and other relevant drawings and supporting data appropriate to a concept-level design service.
- Design Team will develop a conceptual building and parking program and project narrative together with a room outline and overall square footage tabulation.
- Design Team will prepare and exhibit presentation materials to communicate the concept design to stakeholders and the broader community. Includes Design Team participation in required presentations to County, City, the public, and local authorities having jurisdiction.
- Concept-level cost estimates for elements of the Project within our Scope (see Project Scope above).
  - Order of Magnitude Concept Cost Estimate
  - Estimate of Project Soft Costs and Total Project Cost
  - Design Team will develop potential options for phasing to meet immediate budget limitations
  - Design Team will update project timeline to reflect changes in deliverable dates, approvals, etc.

## **DELIVERABLES**

- Project Schedule/Timeline
- Meeting Notes
- Summary of Community Engagement Feedback
- Market Demand Study
- Conceptual Building and Parking Programs
- Project Narrative
- Site Analysis
- Conceptual Design Options – Includes overall district plan, site plan, floor plan diagram, massing studies
- Concept Cost Estimate – Indicating Construction Costs, Soft Costs, and Total Project Costs
- Options for Phasing to Meet Immediate Budget Limitations



### **SCHEDULE OF ACTIVITIES**

The Design Team proposes to accomplish the above identified Scope of Work within fourteen (14) calendar weeks of receipt of Notice to Proceed. Notice to Proceed shall be understood as having been given upon receipt of one original signed copy of this Proposal. Notwithstanding the above, Client and Design Team may agree to extend this schedule as required to accommodate meeting dates or other conditions unrelated to the Design Team's work on the Project.

### **FEE & REIMBRUSABLES**

The fee to complete Phase 1 is \$230,000. The team is willing to complete Phase 1 at a reduced professional fee (15% Discount) with the expectation that this team shall be engaged to provide full architectural and engineering services for the Project when the Project proceeds into Phase 2.

For the above-described Scope of Services, Client agrees to compensate Design Team as follows:

#### Design Fee

Phase 1 Community Engagement	\$58,500
Market Demand Study	\$39,000
<u>Phase 1 Programming and Concept Design:</u>	<u>\$98,000</u>
Total Fee for Phase 1:	\$195,500

#### Reimbursables

Phase 1 Expense Reimbursement (Not-to-Exceed)	\$19,500
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Out of pocket expenses incurred by the team shall include (but not be limited to) expenses for travel, mileage, subsistence, lodging, printing and binding, reproduction, unique telecommunications charges, postage, shipping, testing, professional rendering services, and development of a 3-D physical model. Reimbursables will be at a cost times 1.10 for administration.

### **ADDITIONAL SERVICES/EXPENSES ALLOWANCE**

There are several anticipated additional services that will need to be completed as part of this project. Some of these may run through Schmidt Associates as a reimbursable and others will be contracted directly with the Owner.

#### Additional Services (Not anticipated to exceed \$135,000)

- Survey - Topographic and Boundary
- Drone Imaging of the Site (2D orthographic map and 3D point cloud)
- Interior and exterior Mobile Scanning of Convention Center Building
- Site Appraisals
- Environmental Surveys – Phase 1 and Phase 2





This proposal is limited to the Phase 1 services described in Scope of Work and does not include the scope/fee for Phase 2 preparation of traditional architectural and engineering drawings for permitting, bidding or construction. For Phase 2 Basic Services, Design Team and Client agree that the fee will be established based on the attached schedule (Exhibit A), based on the current cost estimate of the project. At the conclusion of the Design Development (DD) phase of services, the Architecture/Engineering Fee for Basic Services will be converted to a lump sum amount based on the final DD construction cost estimate and identified alternates selected to move forward, including any contingency. Upon completion of the Phase 1 scope of work, an AIA contract shall be executed for Phase 2 (as appropriate for the selected construction methodology).

Additional services requested by the Owner will be billed according to our current Hourly Rate Schedule.

## **TERMS AND CONDITIONS**

The fee will be billed monthly. Payments are due and payable fifteen (15) days from the date of the invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate of 1.5% per month.

Information furnished by others is assumed to be true, correct, and reliable. A reasonable effort has been made to verify such information; however, the Architect/Engineer assumes no responsibility for its accuracy.

It is agreed that any liability of the Architect/Engineer is limited to the amount of the fee. Further, the Architect/Engineer's responsibility is limited to the Owner. The use by third parties of documents prepared as a part of this Agreement without the knowledge and consent of the Architect/Engineer shall be at the risk of the Owner and/or the third parties.

This Design Team does not provide consulting related to the identification or remediation of hazardous materials, and no such services are included in our Scope of Work.

If the Owner cancels this Agreement, the Owner agrees to pay to the Architect/Engineer upon notice of cancellation for any time or costs incurred before receipt of said notice. Should either party of this Agreement institute legal proceedings because of alleged failure to perform in accordance with its terms, the party against whom judgment is rendered shall pay for all costs, both legal and otherwise, incurred by the other in the course of said action.

Please indicate your acceptance of the terms and conditions of this Letter by signing and returning one copy of this Agreement. Receipt of the executed Letter will serve as our authorization to proceed with the Work. Also enclosed is the *Indiana Department of Revenue General Sales Tax Exemption Certificate* which should be filled out and if tax exempt, the appropriate reason code should be checked. Please return this form with the executed Letter of Agreement.

Thank you for this opportunity to be of service.

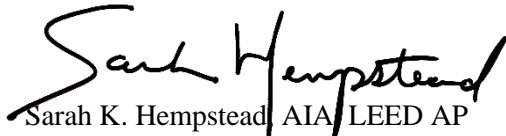




Letter to Mayor Hamilton  
January 25, 2019  
Page 8

Sincerely,

SCHMIDT ASSOCIATES, INC.  
*Architecture • Engineering • Interior Design • Landscape Architecture*

  
Sarah K. Hempstead, AIA, LEED AP  
Chief Executive Officer / Principal  
[shempstead@schmidt-arch.com](mailto:shempstead@schmidt-arch.com)

  
David Greusel, FAIA  
Principal  
[david@convergencedesignllc.com](mailto:david@convergencedesignllc.com)

Accepted:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Printed name and title)

Copy: Lisa Gomperts, Schmidt Associates  
Megan Scott, Schmidt Associates  
Brett Quandt, Schmidt Associates

**Memorandum of Understanding**

**Between**

**CITY OF BLOOMINGTON**

**And**

**MONROE COUNTY GOVERNMENT**

## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (“MOU”) is entered into by and between the City of Bloomington (“City”), and Monroe County Government, by its Board of Commissioners (“County”).

WHEREAS, the Monroe County Convention/Civic Center (“Center”) building was built in 1923 for the Graham Motor Sales company and converted to a Convention/Civic Center in 1991; and

WHEREAS, the Convention/Civic Center is the second most sought after destination for groups seeking to hold events of significant size in Indiana, surpassed only by the Indiana Convention Center; and

WHEREAS, people attending events at the Convention/Civic Center also patronize restaurants and shops in the City of Bloomington, and the resulting combined impact on the local economy over the past twenty-five (25) years is estimated at approximately \$256 million; and

WHEREAS, the Convention/Civic Center was upgraded and remodeled, but not enlarged, in 2012, and its current size has limited its ability to accommodate many groups desiring to hold events in Bloomington, including approximately forty (40) groups in 2016 alone that could not be accommodated; and

WHEREAS, the County and the City agree that an expanded Convention/Civic Center would provide civic benefits such as more meeting space and a greater variety of events, as well as significantly enhance the local economy through additional visitors to the area and increased employment opportunities; and

WHEREAS, the County and City agree that a project to expand the Convention/Civic Center requires their collaboration, and that a project is unlikely to move forward without the availability of certain county excise tax revenues provided for under Indiana Code § 6-9-41-0.3, *et seq.* (“Food and Beverage Tax”); and

WHEREAS, the Food & Beverage Tax is being collected since February 1, 2018; and

WHEREAS, the City and County agree that selection of an Architect to oversee the Convention/Civic Center Expansion Project is the next step to an expanded Convention/Civic Center.

NOW THEREFORE, THE PARTIES AGREE AS FOLLOWS:

### Section 1. Project

The City and County agree to collaborate on a Project to expand the Convention/Civic Center and provide for related supporting infrastructure (such as

parking, water/sewer, connectors, roadways, etc.) (the “Project”) for the benefit of the County, the City, their collective residents and the surrounding region.

Pursuant to Ordinance 2017-51 Section 5, Allocation of Food and Beverage Tax Between Monroe county and the City of Bloomington, both parties agree to distribute 90% of the revenue to the City of Bloomington and 10% of the revenue to the County until such time as the Monroe County Auditor is able to ascertain the location of the collection within the State distribution. Once the Auditor is able to distribute the money based upon collection locations, the County and the City of Bloomington, will correct the 90%-10% distributions as appropriate. Both parties recognize that the food and beverage tax distribution is based upon the point of collection, i.e. the restaurants, gas stations, etc., and not where the payor of the tax resides.

## Section 2. City Use of Food and Beverage Tax Revenue

The County adopted an ordinance approving a Food and Beverage Tax, with City Council support via Resolution and the City hereby pledges that, subject to Section 5 below and I.C. § 6-9-41-16, the monthly tax revenue distributed under I.C. § 6-9-41-13 (“Tax Allocation”) to the City shall be used in accordance with I.C. § 6-9-41-15 for the following purposes:

- Construction and/or renovation of a convention/civic center, including all associated costs with the design.
- Financing or refinancing of a convention/civic center
- Operation of a convention/civic center
- Maintenance of a convention/civic center

## Section 3. County Use of Food and Beverage Tax Revenue

The County adopted an ordinance approving a Food and Beverage Tax, and the County and City have pledged that, subject to I.C. § 6-9-41-16, the County may use one hundred percent (100%) of the Tax Allocation to the County in accordance with I.C. § 6-9-41-14 for related tourism or economic development projects

Bonds sold for construction of the Project facility may require contingent pledging of annual revenue from the full F&B revenues for appropriate debt-service coverage.

## Section 4. Other Uses of Food and Beverage Tax Revenue

The County and City agree that the City may use up to 7.5% of its Tax Allocation for related tourism or economic development projects that support the civic center expansion project, as permitted under I.C. § 6-9-41-15. The balance of the City allocation will be used solely to support items stated in Section 3. At such time as the construction aspect of the Project is completed and all costs of the construction aspect of the Project have been paid, the first priority of the funding will be to supplement the Inn Keepers tax

for the necessary expenses, as determined by the Advisory Commission, for operation and maintenance of the Project. Any Tax Allocation in excess of that may be used for related tourism or economic development projects as allowed under I.C. § 6-9-41-12 and appropriately authorized under I.C. § 6-9-41-16.

#### Section 5. Food and Beverage Advisory Commission

As required under I.C. § 6-9-41-16, the parties shall set up an Advisory Commission composed of the members specified in the statute to “assist efforts of the county and city fiscal bodies regarding the utilization of food and beverage tax receipts.” The City executive shall select two (2) of the three members identified in I.C. § 6-9-41-16(a)(1), and the County executive shall select one (1) of the three members identified in I.C. § 6-9-41-16(a)(1).

#### Section 6 Convention and Civic Center Accountability Committee

The City and County shall set up a Convention and Civic Center Steering Committee for Accountability (or Steering Committee) with the following composition and authority:

**A. Membership:** The Steering Committee shall include nine (9) regular members appointed by both entities as follows:

- 1) City Council Member
- 2) County council member
- 3) Mayor
- 4) Commissioner
- 5) County Commissioners’ resident appointment
- 6) County Commissioners’ resident appointment
- 7) Mayor’s resident appointment
- 8) Mayor’s resident appointment
- 9) Resident appointment jointly agreed upon by the County Commissioners and Mayor.

Each Elected Commission and Council member appointment (1,2, and 4 above) shall be appointed by their respective bodies, and shall be subject to the guidelines, if any, imposed by the appointing body, including, but not limited to, the ability to appoint a proxy. However, any proxy must meet the same qualifications as the member.

The County shall designate one of its resident appointments and the City shall designate one of its resident appointments to serve as Co-Chairpersons of the Steering Committee.

All communications to architect, prior to the recommendation of the Architect selection to the contracting entity, shall be done at the direction of the Chairpersons.

The resident appointments serve at the pleasure of the appointing body.

## **B. Duties:**

1. Review, recommend, and oversee the selection and work of the Architect for the Project.

In order to assure accountability to their constituents, the selection of the architect for the Convention/Civic Center must be approved by a majority vote of the four elected officials on the Steering Committee before the item may be considered by either entity.

This Section notwithstanding, nothing, including the Commission, shall override or circumvent the authority of statutory entities required to review and approve contracts, financing, petitions, applications, permits, or any other mandatory processes.

### Section 7: City and County Responsibilities

The City will be responsible for the following:

1. Contracting and the payment for appropriate expenses for the Architect.
2. Providing list of stakeholders and other relevant entities that should provide input during design phase of the Project.

The County will be responsible for the following:

1. Provide list of stakeholders and other relevant entities that should provide input during design phase of the Project.
2. Providing Staff for the Steering Committee.

Both City and County agree to negotiate, in good faith, the future phases of the project including, but not limited to, the construction and operation phases.

### Section 8. Definitive Agreement

The parties have executed this MOU to signify their joint commitment to pursuing and funding the Project in full collaboration on behalf of the entire community and region.

### Section 9. Notices

Notice given by either party to the other under this MOU shall be in writing and delivered at the addresses provided below:

CITY

City of Bloomington Legal Department  
401 North Morton, Suite 220  
Bloomington, Indiana 47404  
(812) 349-3426 (phone)  
(812) 349-3441 (fax)

COUNTY

Monroe County Attorney's Office  
Courthouse, Room 220  
Bloomington, Indiana 47404  
(812) 349-2525 (phone)  
(812) 349-2982 (fax)

Section 10. Authority of Parties

Each party warrants that it is authorized to enter in this MOU, that the person signing on its behalf is duly authorized to execute the MOU, and that no other signatures are necessary.

Section 11. Counterparts

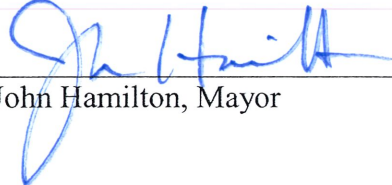
The parties may execute this MOU in counterparts, each of which is deemed an original and all of which constitute only one original.

Section 12. Other Considerations


City and County mutually agree that all news/press releases and other forms of communication about the Project will be jointly prepared and released.

IN WITNESS WHEREOF, the parties hereto have caused this MOU to be executed for and on their behalf the day and year first hereinafter written.

CITY

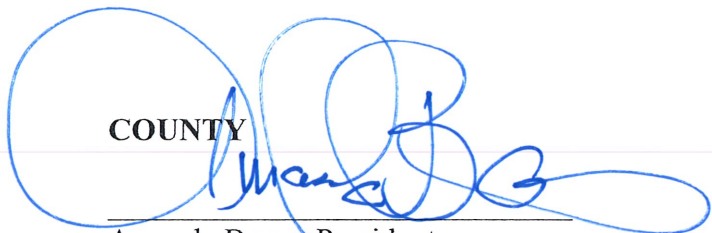
  
\_\_\_\_\_  
John Hamilton, Mayor

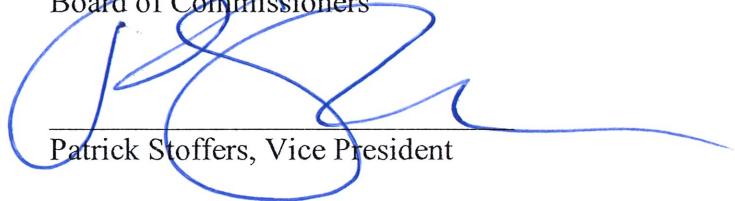
Attest:

  
\_\_\_\_\_  
Nicole Bolden, Clerk

Date: 10/12/18

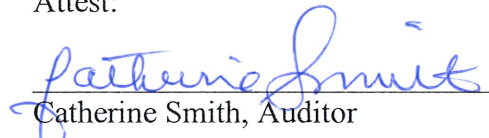
COUNTY

  
\_\_\_\_\_  
Amanda Barge, President  
Board of Commissioners

  
\_\_\_\_\_  
Patrick Stoffers, Vice President

\_\_\_\_\_  
Julie Thomas, Commissioner

Attest:

  
\_\_\_\_\_  
Catherine Smith, Auditor

Date: Oct 10, 2018



**ORDINANCE 19-02**  
**TO AMEND TITLE 10**  
**OF THE BLOOMINGTON MUNICIPAL CODE ENTITLED**  
**“WASTEWATER”**  
**(Stormwater Rate Adjustment)**

- WHEREAS, the City of Bloomington, Indiana (the “City”) has established, acquired, and financed its sewage works pursuant to Indiana Code 36-9-23, as amended (the “Act”), for the purpose of providing for the collection, treatment and disposal of sewage from inhabitants in and around the City; and
- WHEREAS, the City has established within the city wastewater utility the powers, duties and responsibility for the construction, operation and maintenance for the stormwater utility in accordance with Indiana Code 36-9-23; and
- WHEREAS, the City, through its Utilities Service Board, recommends necessary construction of additions and improvements to the stormwater works, including phase III of the renovation to the Jordan River Culvert system, the Jordan River Inlet near Dunn Meadow at the intersection of 6<sup>th</sup> St. and Indiana Ave.; and the portion of the Spankers Branch tunnel that lies beneath 6<sup>th</sup> St.; revitalization of the neighborhood program including the “micro grant” program; and the creation of a new “green initiative” program designed to enhance the quality of life in the City of Bloomington while also improving water quality in streams downstream from the City of Bloomington; and
- WHEREAS, the City, through its Utilities Service Board, engaged the services of London Witte Group to study the revenue requirements for the stormwater system; and
- WHEREAS, London Witte Group prepared a rates and charges report concerning the current stormwater rate (the “Report”) which has not been increased since 2003; and
- WHEREAS, the City, through its Utilities Service Board, upon consideration of the study prepared by London Witte Group, recommends that the Common Council approve a \$3.25 increase in rates and charges for the stormwater works to be phased in over time; and,
- WHEREAS, based upon the Report, and the recommendations of the Utility Service Board, the Common Council of the City (the “Council”) finds that the current rates and charges for the use of and service rendered by the stormwater works do not produce sufficient revenues to pay all the legal and necessary expenses incident to the operation of such stormwater works, including legal expenses, maintenance costs, operating charges, repairs, lease rentals and interest charges on bonds or other obligations of the stormwater works, to provide a sinking fund for the liquidation of indebtedness, and to provide adequate funds to be used as working capital and funds for making extensions and replacements and to make payments in lieu of taxes; and
- WHEREAS, the Council finds that the current rates and charges do not produce an income sufficient to maintain the stormwater works property in a sound physical and financial condition to render safe, adequate and efficient service; and
- WHEREAS, the Council finds that the current rates and charges for the use of and service rendered by the stormwater works must be increased in order to provide sufficient revenue to meet such requirements; and
- WHEREAS, the first phase in period should commence on July 1, 2019, at a rate of \$4.32 for the purpose of revitalizing the neighborhood stormwater projects program including the micro-grant program, and establishing a new Green Infrastructure Fund for implementation of “green” infrastructure projects in coordination with current and future projects by the City of Bloomington; and

WHEREAS, the second phase in period should commence on January 1, 2020, at a rate of \$5.95 to occur in tandem with bond issuance for upcoming stormwater projects including Phase III of the Jordan River Culvert Project; and

WHEREAS, the Council finds that the rates and charges set forth herein are nondiscriminatory, reasonable and just and are based upon the cost of providing service to the customers of the stormwater works and will enable the City to meet its legal revenue requirements for the stormwater works; and

WHEREAS, the Council caused notice of a public hearing on the rates and charges set forth herein to be duly advertised and mailed, and held a public hearing thereon, all pursuant to the Act.

NOW, THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. Section 10.08.045 of the Bloomington Municipal Code (the “Code”), entitled “Rates—Stormwater utility users”, is hereby amended and restated to read as follows:

10.08.045 - Rates - Stormwater utility users.

(a) The rates and charges of the stormwater utility shall be as follows:

The stormwater system user fee is applicable to all utility customers with accounts within the stormwater service area. All customers classified by the utility as being single-family residential (SFR) shall pay a monthly SFR base charge. All Non SFR customers shall be charged based upon the amount of runoff generated by the customer or the monthly SFR base charge, whichever is greater. The amount of runoff subject to the stormwater utility rate for all Non SFR customers shall be determined by a calculation based upon the following formula, minus any credits, as approved by the Utilities Service Board:

$$SFR \text{ base charge} \times \left( \frac{\text{Runoff generated by Non SFR customer}}{\text{Runoff generated by the average SFR customer}} \right)$$

The monthly SFR base charge shall increase in two phases:

- (1) The SFR monthly base charge for the first phase shall be four dollars and thirty-two cents (\$4.32) and shall commence on July 1, 2019.
- (2) The SFR monthly base charge for the second phase shall be five dollars and ninety-five center (\$5.95) and shall commence on January 1, 2020.

(b) These rates and charges shall be billed monthly, and all provisions of the Indiana Code, the Bloomington Municipal Code and the city utilities department "Rules, Regulations and Standards of Service" which apply to the payment and collection of rates and charges for wastewater services shall apply equally to the rates and charges for stormwater utilities services.

SECTION 2. If any section, sentence, or provision of this ordinance or the application thereof to any person or circumstance shall be declared invalid, such invalidity shall not affect any of the other parts of this ordinance which can be given effect without the invalid part, and to this end the provisions of this ordinance are declared to be severable.

SECTION 3. This ordinance shall be in full force and effect upon its passage by the Common Council of the City of Bloomington, Monroe County, Indiana, and approval of the Mayor; provided, however, that the rates and charges herein approved shall take effect on July 1, 2019 for Phase I and January 1, 2020 for Phase II.

PASSED and ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

### SYNOPSIS

This ordinance amends Title 10 of the Bloomington Municipal Code, entitled “Wastewater”, by amending Section 10.08.045 in two ways:

First, this ordinance amends Section 10.08.045 by increasing the stormwater fee from \$2.70 to \$5.95, in two phases, to allow for appropriate funding of necessary improvements to the stormwater system which includes phase two of the Jordan River Culvert project, implementation of a neighborhood stormwater improvement program, and implementation of a green initiative for installation of various green stormwater structures throughout the City.

Second, this ordinance amends Section 10.08.045 to better define application of the fee through a clearer definition of the single family residential base fee and through a more accurate representation of the formula used to calculate the fee for all non-single family residential users.

## **MEMORANDUM**

**To:** Members of the City of Bloomington Common Council

**From:** Vic Kelson, Director, City of Bloomington Utilities and  
Laura Pettit, Assistant Director- Finance, City of Bloomington Utilities

**Date:** February 1, 2019

This memo accompanies the proposed stormwater utility rate change for the City of Bloomington Utilities. Our consultant, London Witte Group, recommends that the monthly stormwater fee be increased from the current \$2.70 to \$5.95 for residential customers. Other customers pay on the basis of the number of square feet of impermeable surface at their facilities. Their fee would increase proportionally with the residential customers, a 120% increase. The last time that the stormwater fee was reviewed was 2003. The increase will provide CBU with the funds needed to complete over \$12 million in bond-funded, major infrastructure projects and \$4 million in green infrastructure projects.

This change proposed Ordinance 19-02 amends Section 10.08.045 to adjust the stormwater fee up to \$5.95. The adjustment will occur in two phases. Phase one will adjust the fee from its current rate of \$2.70 up to \$4.32 and will take effect on July 1, 2019. This phase will enable the City to revitalize the neighborhood stormwater projects program which includes the new “micro-grant” program and “green infrastructure” program which are discussed in greater detail below. Phase two will adjust the rate from \$4.32 up to \$5.95, and will take effect on January 1, 2019. This adjustment will occur in tandem with new bonding for infrastructure improvement and replacement projects outlined below.

### **Background**

We at the City of Bloomington Utilities (CBU) work hard to identify ways that we can control our costs while continuing to provide high-quality services and make continuous improvements to our stormwater utility. Even so, the costs of maintaining and enhancing this utility increases every year and the stormwater rates have remained unchanged since 2003.

In late 2018, we began the process for reviewing our rate structure as well as the capital needs required to meet our goals of excellence in the delivery of stormwater services- critical to the health and safety of our community.

In 1997, a consultant’s report called for repair or replacement of several aging and/or undersized sections of the five primary stormwater tunnels under downtown Bloomington. This included the Jordan River, the Lower Spanker’s Branch, a portion of the Upper Spanker’s Branch, the Dunn Branch and the Wylie Street Culvert. An updated report was prepared in 2001 which detailed additional deficiencies in the remaining portion of the Upper Spanker’s Branch. With the implementation of the stormwater utility fee, CBU executed several significant capital projects called out in those reports, including five large projects along the Jordan River, two significant projects on the Lower Spanker’s Branch and structural upgrades to a portion of the Wylie Street Culvert. With the exception of the emergency

repairs to the Jordan Culvert at Third Street in 2017 and the Wylie Street Culvert at Walnut Street this year, the remaining projects have been left undone since 2013, owing to a lack of sufficient revenues.

### **Capital Improvements**

CBU's Engineering department has developed a Capital Improvement Plan (CIP) to improve stormwater infrastructure that serves the City of Bloomington. The new CIP includes the final three significant projects from the 1997 and 2001 reports.

- Completion of the Jordan River tunnel, specifically the construction of the 'middle' segment that extends roughly from 4th and Grant to 2nd and Washington. This segment includes the tunnel that lies beneath the intersection 3rd and Lincoln, and also lies partially beneath Third Street Park. In 2017, CBU hired a structural engineer to examine the condition of the Jordan tunnel because of the conditions previously noted in the 1997 report. He found that steel reinforcing bars that hold the roof up were missing, and that the culvert was in poor repair. His recommendation was that CBU act immediately to make temporary improvements to the roof of the tunnel. With assistance from numerous City departments, CBU and a contractor completed the work after closing the 3rd-and-Lincoln intersection for several weeks. The contractor's engineer reported that the temporary roof should be considered a "five-year" fix, and that CBU should move quickly to replace the middle portion of the Jordan tunnel.
- Replacement of the "inlet" structure at the upstream end of the Jordan tunnel, near Kirkwood and Indiana. That inlet is undersized and is in degraded condition. Since portions of the Jordan River tunnel remain undersized as well, replacement of this section has been put on hold pending completion of the rest of the tunnel.
- Replacement of significant portions of the Upper Spanker's Branch tunnel, specifically a masonry arch segment that lies beneath 6th St. west of the Courthouse Square which shows advanced stages of structural deterioration.
- In addition to the major construction projects described above, the Utility pays for operations and maintenance (O&M) activities for stormwater infrastructure, local stormwater education, and neighborhood stormwater improvements via the stormwater fee. Council has also authorized a "micro-grant" program that would allow the Utility to supplement efforts by neighbors to execute stormwater improvements on private property. As the fee has been held at a constant level for such a long time, the amount of dollars that are available for these efforts has fallen, in real terms.

In addition to the above-mentioned capital projects, O&M, and neighborhood programs, the Utility wishes to move ahead with an important change in the way the City of Bloomington manages stormwater. Across the U.S., communities are amending the traditional methods for removing stormwater via various conveyances, by adding features that collect water, slow it down, and utilize natural biological processes to "pre-treat" stormwater. These features can filter out sediment and some particulate materials, biologically remove some stormwater contaminants such as oil and grease, and reduce the intensity for flow-rate peaks downstream of the City, helping to prevent flooding and erosion damage. It may also reduce the intensity of infiltration and inflow (I&I) of stormwater into the sanitary sewer system. Taken as a whole, this is referred to as "Green" infrastructure, as opposed to the

traditional “Grey” approach. Presently, the City has made only limited investments in green stormwater infrastructure, most notably the stormwater treatment facility at Miller-Showers Park.

### **Green Infrastructure**

With Council’s help, CBU has added a dedicated MS4 Coordinator who join us in 2019. The Coordinator will be responsible for all components related to the City’s MS4 (Municipal Separate Storm Sewer System) programs. One major objective is to increase CBU’s commitment to ‘green’ stormwater infrastructure projects whenever possible.

The Utility wishes to establish a Green Infrastructure Fund utilizing dedicated dollars from the stormwater fee. The Fund would provide a mechanism for City department to invest in green infrastructure projects. This could affect many departments, most notably Planning and Transportation, Parks and Recreation, Public Works, and Utilities. For example, if a street were being reconstructed, the Fund could pay the difference between a “grey” solution and a “green” solution for stormwater management in the project. In addition, the Fund would pay for maintenance of “green” infrastructure features, such as Miller-Showers, detention ponds, rain gardens, and other features constructed by the City in rights-of-way. If authorized by the Utility Service Board (USB) and Council, the Utilities Department could consider establishing a grant program for private green-infrastructure investments, such as green roofs on new commercial buildings.

Financial analysis shows that funding for the above-mentioned major capital projects, O&M, education, and neighborhood programs will require a fee increase of \$2.45 per month for residential customers. The Utility is requesting an additional increase of \$0.80 per month for the Green Infrastructure Fund. Over the coming decade, this would raise approximately \$4 million, about 1/3 of the cost of the major capital projects that would be dedicated to green infrastructure investments, operations, and maintenance.

The Utility’s total requested increase is therefore \$3.25 per month for residential customers, raising the residential stormwater fee to \$5.95 per month. The increase for other customers would be in the same proportion as the residential increase. This increase would allow the Utility to rebuild and improve vital existing infrastructure that serves the City of Bloomington and facilitate a greener approach for Bloomington’s future stormwater management efforts.

This ordinance also amends Section 10.08.045 to better define application of the fee through a clearer definition of the single family residential base fee and through a more accurate representation of the formula used to calculate the fee for all non-single family residential users.

In addition to these major, and necessary, improvements to our stormwater infrastructure, the proposed rate will increase the amount of money that is available for neighborhood stormwater projects and for the stormwater grants program that was created by Council in the 2019 CBU budget.

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**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

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**RATE AND FINANCING SUFFICIENCY STUDY**

**Test Year of the Twelve Months Ending July 31, 2018**

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**January 17, 2019**





## **CITY OF BLOOMINGTON STORM WATER UTILITY**

Bloomington, Indiana

### **SUMMARY**

LWG CPAs & Advisors (“LWG”) performed a Rate and Financing Sufficiency Study (“Study”) using the operating and financial reports pertaining to the City of Bloomington’s Storm Water Utility (“Utility”). The purpose of the Study was to assist the City in determining whether the current and/or future rates to be charged to the Utility’s customers generate sufficient cash flows that enable the Utility to cover its costs of operations and maintenance, proposed debt service, and to make capital improvements/replacements.

This Study began with the historical data taken from the books and records specific to the Storm Water Utility for the twelve months ending July 31, 2018. This historical information was then adjusted for the changes in operating expenses per the 2019 Operating Budget (Exhibits D and D-1, 2019 Budget Adjustments column, lines 7 through 10), the Capital Improvements Plan inclusive of Green Projects (Exhibit C and G) funded annually through rates and for the proposed long term debt to be issued for the critical Jordan River Culvert Replacement Project and for the Spanker’s Arch at 6<sup>th</sup> Street Project. In adjusting the costs for the 12 month test year period ending July 31, 2018 to include the effects of only the Utility’s annual 2019 operating and replacement budgets, the Utility would need to increase its Single Family Residential Monthly Charge by 30.46% from \$2.70 to \$3.52 (Exhibits C and H).

The Utility currently has no outstanding long term debt issues. The Utility is proposing to issue \$14,135,000 of long term debt (Exhibit E and Schedule E) in order to complete the major projects listed previously. The proposed debt is estimated to be paid off over a twenty (20) year term at an estimated interest rate amounting to 4.50%. The maximum annual debt payment for this proposed debt issue would amount to \$1,065,900. The Utility would also need to provide a debt service reserve fund for this debt amounting to \$1,065,900 over a five year period of time (\$213,180 annually). With the addition of these two funding needs, the Utility would need to increase its Single Family Residential Monthly Charge by 120.18% which results in a monthly charge amounting to \$5.95 (Exhibit C).

After the effects of the proposed increase in rates as set forth in Exhibit C, the Debt Service Coverage Ratio on the proposed issue would amount to 2.13 times which is in excess of the industry minimum coverage ratio amounting to 1.25 times (Exhibit F). This is indicative that the Utility’s net operating revenues are sufficient to pay the annual principal and interest on this proposed debt and fund the annual improvements/replacements (Exhibit G) in addition to paying the operational costs of the Utility.

Exhibit I is a schedule indicating the Storm Water Rates for numerous municipal entities and indicates both Bloomington’s current storm water rate and the proposed rate as compared to those entities’ rates that were procured. This Exhibit also include both the per capita income and median household income for all of the municipal entities included.

In the course of preparing the Study, LWG did not conduct an audit of any financial or supplemental data used in the Study. We have made certain projections, which may vary from actual results because events and circumstances frequently do not occur as estimated and such variances may be material. We have no responsibility to update this Study for events and circumstances occurring after November 25, 2018.



**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

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**City of Bloomington Municipal Sewage Works and Storm Water Utility**  
Bloomington, Indiana

Balance Sheets as of July 31, 2018 and December 31, 2017, 2016 and 2015

Line No.	ASSETS AND OTHER DEBITS	<u>7/31/2018</u>	<u>12/31/2017</u>	<u>12/31/2016</u>	<u>12/31/2015</u>
1	<u>Utility Plant - Sewage Works</u>				
2	Utility Plant in Service	\$ 162,884,672	\$ 162,593,224	\$ 161,928,095	\$ 159,001,455
3	Less: Accumulated Depreciation	(90,555,725)	(88,515,843)	(85,094,585)	(81,665,655)
4	Net Utility Plant in Service	72,328,947	74,077,380	76,833,510	77,335,800
5	Add: Construction Work in Progress	8,680,677	3,700,639	682,358	2,467,165
6	Net Utility Plant - Sewage Works	81,009,624	77,778,020	77,515,868	79,802,965
7	<u>Utility Plant - Stormwater Utility</u>				
8	Utility Plant in Service	17,999,632	17,999,632	17,818,959	17,759,220
9	Less: Accumulated Depreciation	(2,883,944)	(2,716,425)	(2,429,768)	(2,179,245)
10	Net Utility Plant in Service	15,115,688	15,283,207	15,389,191	15,579,975
11	Add: Construction Work in Progress	527,807	440,537	285,959	243,632
12	Net Utility Plant - Sewage Works	15,643,495	15,723,744	15,675,150	15,823,607
13	<u>Restricted Assets</u>				
14	Sinking Fund	2,551,636	1,491	2,419	391
15	Debt Service Reserve Fund	5,726,301	5,726,301	6,690,957	6,690,833
16	Sinking Fund Cash with Fiscal Agent	-	5,704,636	5,556,575	5,550,269
17	Construction Fund - Sewage Works	1,602,700	5,283,434	58,405	457,953
18	Total Restricted Assets	9,880,636	16,715,862	12,308,356	12,699,446
19	<u>Current and Accrued Assets</u>				
20	Operation and Maintenance Fund -				
21	Sewage Works	10,646,221	8,584,643	6,237,648	5,932,234
22	Operation and Maintenance Fund -				
23	Stormwater Utility	723,191	654,868	704,064	686,000
24	Accounts Receivable - Net	366,550	812,613	430,921	520,866
25	Total Current and Accrued Assets	11,735,963	10,052,124	7,372,633	7,139,100
26	<u>Deferred Debits</u>				
27	Unamortized Bond Issuance Costs	217,660	248,526	279,392	310,258
28	Unamortized Bond Discount	184,378	193,075	83,609	86,941
29	Deferral Loss on Advance Refunding	512,424	597,829	683,233	768,638
30	Total Deferred Debits	914,462	1,039,431	1,046,234	1,165,837
31	Total Assets and Other Debits	\$ 119,184,181	\$ 121,309,181	\$ 113,918,241	\$ 116,630,955

**City of Bloomington Municipal Sewage Works and Storm Water Utility**  
Bloomington, Indiana

Balance Sheets as of July 31, 2018 and December 31, 2017, 2016 and 2015

Line No.	LIABILITIES AND OTHER CREDITS	<u>7/31/2018</u>	<u>12/31/2017</u>	<u>12/31/2016</u>	<u>12/31/2015</u>
1	<u>Equity Capital</u>				
2	Unappropriated Retained Earnings	\$ 33,128,574	\$ 27,387,332	\$ 24,503,121	\$ 22,377,211
3	Current Year Earnings	3,130,449	5,741,242	2,875,101	2,125,908
4	Total Equity Capital	<u>36,259,023</u>	<u>33,128,574</u>	<u>27,378,222</u>	<u>24,503,119</u>
5	<u>Long Term Debt</u>				
6	Revenue Bonds Payable	27,184,400	30,519,000	27,970,400	32,109,283
7	SRF Loans Payable	7,686,367	8,555,634	9,395,877	10,208,678
8	Capital Lease Obligations	131,567	260,178	648,197	1,055,715
9	Compensated Absences Payable - Long Term	231,258	231,540	226,530	225,409
10	Total Long Term Debt	<u>35,233,592</u>	<u>39,566,352</u>	<u>38,241,004</u>	<u>43,599,085</u>
11	<u>Current and Accrued Liabilities</u>				
12	Accounts Payable	268,942	271,856	190,867	506,412
13	Revenue Bonds - Current	3,334,600	4,246,400	4,138,883	4,100,000
14	SRF Loans - Current	869,267	840,243	812,801	786,920
15	Capital Lease Obligations - Current	258,702	322,978	314,396	279,326
16	Accounts Payable Associated Company	10,069	10,056	7,961	7,209
17	Unearned Revenue	746,050	669,680	665,442	683,431
18	Accrued Payroll	179,500	192,365	192,932	164,497
19	Compensated Absences Payable - Short Term	59,103	66,572	68,438	66,392
20	Total Current and Accrued Liabilities	<u>5,726,233</u>	<u>6,620,149</u>	<u>6,391,720</u>	<u>6,594,187</u>
21	<u>Deferred Credits</u>				
22	Unamortized Bond Premium	339,214	367,988	281,176	308,445
23	Other Deferred Liabilities	19,000	19,000	19,000	19,000
24	Total Deferred Credits	<u>358,214</u>	<u>386,988</u>	<u>300,176</u>	<u>327,445</u>
25	<u>Contributions in Aid of Construction</u>	<u>41,607,119</u>	<u>41,607,119</u>	<u>41,607,119</u>	<u>41,607,119</u>
26	Total Liabilities and Other Credits	<u>\$ 119,184,181</u>	<u>\$ 121,309,181</u>	<u>\$ 113,918,241</u>	<u>\$ 116,630,955</u>

**City of Bloomington Municipal Sewage Works and Storm Water Utility**  
Bloomington, Indiana

Statements of Income for the Twelve Months Ended July 31, 2018 and December 31, 2017, 2016, and 2015

Line No.		<u>7/31/2018</u>	<u>12/31/2017</u>	<u>12/31/2016</u>	<u>12/31/2015</u>
1	<u>Operating Revenues</u>				
2	Metered Sales - Residential Single Family	\$ 6,716,735	\$ 6,511,699	\$ 5,593,469	\$ 5,565,808
3	Metered Sales - Multiple Family	6,679,985	6,538,028	5,549,370	5,493,527
4	Metered Sales - Commercial	3,983,451	3,776,800	2,932,959	2,585,845
5	Metered Sales - Industrial	381,648	345,131	342,290	324,446
6	Metered Sales - Public Authority	4,228,581	3,787,888	2,867,037	3,083,954
7	Sales - Stormwater	1,414,829	1,416,270	1,403,196	1,411,811
8	Miscellaneous Operating Revenues	314,340	297,651	244,883	261,147
9	Total Operating Revenues	<u>23,719,569</u>	<u>22,673,466</u>	<u>18,933,204</u>	<u>18,726,538</u>
10	<u>Operating Expenses</u>				
11	Operation and Maintenance Expenses:				
12	Collection System Expenses	223,832	243,561	230,141	303,106
13	Pumping Expenses	240,270	258,371	232,615	200,738
14	Treatment Expenses	2,114,260	2,098,534	1,867,945	1,903,095
15	Customer Account Expenses	662,820	626,374	587,425	497,967
16	Administrative and General Expenses	8,129,685	7,968,251	7,788,778	8,099,945
17	Stormwater Expenses	679,432	642,158	724,422	673,702
18	Total Operation and Maintenance Expenses	<u>12,050,300</u>	<u>11,837,249</u>	<u>11,431,326</u>	<u>11,678,553</u>
19	Depreciation Expense:				
20	Sewage Works Depreciation Expense	3,465,405	3,421,258	3,428,930	3,282,877
21	Stormwater Depreciation Expense	286,959	286,657	250,523	249,231
22	Total Depreciation Expense	<u>3,752,364</u>	<u>3,707,916</u>	<u>3,679,453</u>	<u>3,532,108</u>
23	Taxes Other Than Income Taxes:				
24	Payroll Taxes	339,812	337,255	329,985	329,949
25	Payment In Lieu of Property Taxes	356,709	356,709	495,226	679,474
26	Total Taxes Other than Income Taxes	<u>696,521</u>	<u>693,964</u>	<u>825,211</u>	<u>1,009,423</u>
27	Total Operating Expenses	<u>16,499,185</u>	<u>16,239,128</u>	<u>15,935,990</u>	<u>16,220,084</u>
28	Net Operating Income	\$ 7,220,384	\$ 6,434,337	\$ 2,997,214	\$ 2,506,454
29	<u>Other Income</u>				
30	Interest Income	36,952	32,199	933	1,710
31	Connection Charges	766,747	483,818	364,592	275,498
32	Miscellaneous Other Income	170,756	126,656	120,661	329,398
33	Extraordinary Income	-	-	756,772	520,717
34	Total Other Income	<u>974,455</u>	<u>642,673</u>	<u>1,242,958</u>	<u>1,127,323</u>
35	<u>Other Expenses</u>				
36	Interest Expense	1,198,908	1,237,308	1,362,971	1,505,769
37	Miscellaneous Expense	1,600	3,200	2,100	2,100
38	Bond Issuance Expense	-	95,261	-	-
39	Total Other Expense	<u>1,200,508</u>	<u>1,335,769</u>	<u>1,365,071</u>	<u>1,507,869</u>
40	Net Income	<u>\$ 6,994,331</u>	<u>\$ 5,741,242</u>	<u>\$ 2,875,101</u>	<u>\$ 2,125,908</u>

**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**Statement of Revenue Requirements**

<b>Line No.</b>	<b><u>Requirement</u></b>	<b><u>Pro Forma Stormwater</u></b>	<b><u>Pro Forma With Additional Long Term Debt</u></b>
1	Adjusted Operation and Maintenance Expenses	\$ 894,181	\$ 894,181
2	Maximum Annual Debt Service - Proposed	-	1,065,900
3	Annual Debt Service Reserve Funding Requirement	-	213,180
4	Annual Extensions and Replacements (2019 Budget Amount including Annual Green Project Budget)	<u>993,465</u>	<u>993,465</u>
5	Total Revenue Requirements	1,887,646	3,166,726
6	Less: Miscellaneous Non-Rate Operating Revenues	27,891	27,891
7	Less: Operating Revenues	<u>1,425,664</u>	<u>1,425,664</u>
8	Deficit/(Excess) Revenues	<u>\$ 434,091</u>	<u>\$ 1,713,171</u>
9	Percentage Rate Increase - Proposed	<u>30.46%</u>	<u>120.18%</u>
10	Current Monthly Residential Rate	<u>\$ 2.70</u>	<u>\$ 2.70</u>
11	Proposed Monthly Residential	<u>\$ 3.52</u>	<u>\$ 5.95</u>
12	Proposed Rates Debt Coverage Ratio		<u>2.13</u>

**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**Pro Forma Revenues and Expenses**  
**No Long Term Debt Issue Included**

					Proposed Increase	30.46%
Line No.		<u>7/31/2018</u>	<u>2019 Budget Adjustments</u>	<u>Pro Forma Adjusted</u>	<u>Proposed Increase</u>	<u>Pro Forma Proposed</u>
1	<b><u>Operating Revenues</u></b>					
2	Sales	\$ 1,414,829	\$ -	\$ 1,414,829	\$ 430,957	\$ 1,845,786
3	Forfeited Discounts	10,835	-	10,835	3,300	14,135
4	Miscellaneous Revenues	27,891		27,891		27,891
5	Total Operating Revenues	1,453,555	\$ -	1,453,555	434,257	1,887,812
6	<b><u>Operating Expenses</u></b>					
7	Trtmnt/Disp Ops	2	21,498	21,500		21,500
8	Trtmnt/Disp Mnt	22,125	0	22,125		22,125
9	Administrative & General	657,306	193,250	850,556		850,556
10	Depreciation/Extensions & Replacements	286,959	706,506	993,465		993,465
11	Total Operating Expenses	966,392	921,254	1,887,646	-	1,887,646
12	<b><u>Net Operating Income</u></b>	<u>\$ 487,164</u>	<u>\$ (921,254)</u>	<u>\$ (434,091)</u>	<u>\$ 434,257</u>	<u>166</u>

**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**Pro Forma Revenues and Expenses**  
**Inclusive of Long Term Debt Issue**

<b>Line No.</b>		<b>Proposed Increase</b>				<b>120.18%</b>
		<b><u>7/31/2018</u></b>	<b><u>2019 Budget Adjustments</u></b>	<b><u>Pro Forma Adjusted</u></b>	<b><u>Proposed Increase</u></b>	<b><u>Pro Forma Proposed</u></b>
1	<b><u>Operating Revenues</u></b>					
2	Sales	\$ 1,414,829	\$ -	\$ 1,414,829	\$ 1,700,341	\$ 3,115,170
3	Forfeited Discounts	10,835	-	10,835	13,022	23,857
4	Miscellaneous Revenues	<u>27,891</u>		<u>27,891</u>		<u>27,891</u>
5	Total Operating Revenues	1,453,555	\$ -	1,453,555	1,713,363	3,166,918
6	<b><u>Operating Expenses</u></b>					
7	Trtmnt/Disp Ops	2	21,498	21,500		21,500
8	Trtmnt/Disp Mnt	22,125	-	22,125		22,125
9	Administrative & General	657,306	193,250	850,556		850,556
10	Depreciation/Extensions & Replacements	<u>286,959</u>	<u>706,506</u>	<u>993,465</u>		<u>993,465</u>
11	Total Operating Expenses	<u>966,392</u>	<u>921,254</u>	<u>1,887,646</u>	-	<u>1,887,646</u>
12	<b><u>Net Operating Income</u></b>	<u>\$ 487,164</u>	<u>\$ (921,254)</u>	<u>\$ (434,091)</u>	<u>\$ 1,713,363</u>	<u>1,279,272</u>





**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**Sources and Uses**  
**Proposed Sewage Works Revenue Bonds, Series 2019**  
**Jordan River Culvert Replacement and Spanker's Arch at 6th Street**

<b><u>Line</u></b>	<b><u>No.</u></b>	<b><u>Sources of Funds</u></b>		
1		<b><u>Sources of Funds</u></b>		
2		Par Amount of 2019 Bonds		<u><u>\$ 14,135,000</u></u>
3		<b><u>Uses of Funds</u></b>		
4		Project Costs	\$ 12,545,000	
5		Construction Contingency	<u>1,254,500</u>	
6		Subtotal		\$ 13,799,500
7		Non-Construction Costs		
8		Rating	25,000	
9		Municipal Advisor	35,000	
10		Bond Counsel	80,000	
11		Registrar and Paying Agent	3,000	
12		Underwriter's Discount	106,013	
13		Bond Insurance	85,064	
14		Rounding	<u>1,423</u>	
15		Subtotal		<u>335,500</u>
16		Total Uses of Funds		<u><u>\$ 14,135,000</u></u>

**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**Debt Service Reserve Revenue Requirement Calculations**

**Line**  
**No.**

1	Maximum Annual Debt Service after 2019 Debt Issue	\$ 1,065,900
2	Divide By: Funding Period in Years	<u>5</u>
3	Annual Debt Reserve Revenue Requirement	<u><u>\$ 213,180</u></u>

**Debt Service Coverage Calculations**

4		<b>Pro Forma</b>
5		<b><u>Proposed Debt</u></b>
6	Operating Revenues	\$ 3,166,918
7	Less: Operating Expenses net of Depreciation/Extensions & Replacements	<u>894,181</u>
8	Net Operating Income	\$ 2,272,737
9	Maximum Annual Debt Service	\$ 1,065,900
10	Debt Service Coverage	<u><u>2.13</u></u>

**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**ANNUAL EXTENSIONS AND REPLACEMENTS (funded through annual rate revenue requirements)**

<u>Line No.</u>	<u>PROJECT</u>	<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	<u>Total</u>
<b><u>CULVERT (TUNNEL) REPLACEMENTS - Extensions and Replacements</u></b>						
1	S. High St. at E. Covenanter Culvert Replacement					
2	Construction (CBU T&D)	\$ 100,000	\$ -	\$ -	\$ -	\$ 100,000
3	<b>Total Funding Needs - Culvert (Tunnel)</b>	<b>\$ 100,000</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ 100,000</b>
<b><u>DRAINAGE IMPROVEMENTS - Extensions and Replacements</u></b>						
4	Drainage System Annual Improvement By Year	\$ 200,000	\$ 200,000	\$ 200,000	\$ 200,000	\$ 800,000
5	<b>Total Annual Funding Needs - Drainage</b>	<b>\$ 200,000</b>	<b>\$ 200,000</b>	<b>\$ 200,000</b>	<b>\$ 200,000</b>	<b>\$ 800,000</b>
<b><u>MISCELLANEOUS OTHER PROJECTS - Extensions and Replacements</u></b>						
6	Weimer Dam					
7	Impoundment Removal and Site Remediation	\$ 650,000	\$ -	\$ -	\$ -	\$ 650,000
	Culvert Inspection					
	Professional Services for Culvert Inspections	80,000	-	-	-	80,000
8	Vehicles and Equipment Replacement					
9	Annual Budget for Vehicle Equipment and Replacement	50,000	50,000	50,000	50,000	200,000
10	Green Project Infrastructure					
11	Annual Budget for Green Projects	300,000	300,000	300,000	300,000	300,000
12	<b>Total Funding Needs - Other</b>	<b>\$ 1,080,000</b>	<b>\$ 350,000</b>	<b>\$ 350,000</b>	<b>\$ 350,000</b>	<b>\$ 1,230,000</b>
13	<b>Total Stormwater Projects Annual Funding Needs</b>	<b>\$ 1,380,000</b>	<b>\$ 550,000</b>	<b>\$ 550,000</b>	<b>\$ 550,000</b>	<b>\$ 2,130,000</b>
14	<b>Annual Four Year Average Extensions and Replacement Funding Needs</b>					<b>\$ 532,500</b>
		<u>2019</u>	<u>2020</u>	<u>2021</u>	<u>2022</u>	
15	Available Cash Balance (initial as of 07/31/2018)	\$ 574,161	\$ 187,626	\$ 631,091	\$ 1,074,556	
16	Annual Funding through Revenue Requirement (2019 Budget)	993,465	993,465	993,465	993,465	
17	Budgeted Annual CIP Spending	(1,380,000)	(550,000)	(550,000)	(550,000)	
18	Estimated Remaining Cash Balance	\$ 187,626	\$ 631,091	\$ 1,074,556	\$ 1,518,021	
19	Calculation of Available Cash Balance as of 07/31/2018:					
20	Operation and Maintenance Fund Balance		\$ 723,191			
21	Pro Forma Operating Expenses	\$ 894,181				
22	Divide by: # of months/year	12				
23	Monthly Operating Expenses	\$ 74,515				
24	Multiply By: Minimum required months	2				
25	Minimum Required Fund Balance		(149,030)			
26	Cash Balance Available for CIP and PILOT		<u>\$ 574,161</u>			

**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**Stormwater Current and Proposed Rates and Charges**

**Line  
No.**

All Single Family Residential Customers in the storm water system service area will be charged a monthly rate. All other customers will be charged based on the amount of runoff according to the following formula: (runoff generated by the non-Single Family Residential Customer divided by runoff generated by the average Single Family Residential Customer) multiplied by the Single Family Residential Monthly Charge.

		<b><u>Current</u></b>	<b><u>Proposed</u></b>
2			
3	Single Family Residential Monthly Charge	\$2.70	\$5.95
4	Late Payment Fee: Shall be paid only once and applied to any unpaid balance	10%	10%

**City of Bloomington Municipal Stormwater Utility**  
Bloomington, Indiana

**Stormwater Rates Survey of Indiana Cities and Towns**

<b><u>Line No.</u></b>	<b><u>City/Town</u></b>	<b><u>Current Charge</u></b>	<b><u>Per Capita Income</u></b>	<b><u>Median Income</u></b>
1	Lawrence	\$15.00	\$26,397	\$50,107
2	Portage	\$12.00	\$25,498	\$54,566
3	Logansport	\$10.66	\$18,442	\$35,603
4	Muncie	\$9.00	\$18,891	\$32,372
5	West Lafayette	\$8.00	\$19,421	\$31,230
6	Gary	\$7.50	\$17,392	\$29,293
7	Clarksville	\$6.00	\$25,019	\$42,872
8	New Castle	\$6.00	\$20,110	\$36,655
<b>9</b>	<b>Bloomington - Proposed (Residential)</b>	<b>\$5.95</b>	<b>\$21,972</b>	<b>\$33,172</b>
10	Fort Wayne	\$5.15	\$25,066	\$45,853
10	Lebanon	\$5.00	\$29,462	\$47,234
11	Greenwood	\$5.00	\$28,078	\$55,274
12	Hammond	\$5.00	\$20,337	\$44,427
13	Brownsburg	\$5.00	\$32,690	\$68,986
14	Marion	\$5.00	\$17,631	\$32,879
15	Fishers	\$4.95	\$46,619	\$101,469
16	Jeffersonville	\$4.83	\$26,840	\$52,861
17	Wabash	\$4.20	\$24,876	\$44,094
18	Plainfield	\$4.00	\$28,383	\$62,121
19	Anderson	\$3.50	\$20,207	\$34,693
20	Richmond	\$3.18	\$20,907	\$33,381
21	Westfield	\$2.75	\$37,855	\$89,144
<b>22</b>	<b>Bloomington - Current (Residential)</b>	<b>\$2.70</b>	<b>\$21,972</b>	<b>\$33,172</b>
23	Indianapolis (residential)	\$2.25	\$26,232	\$44,709

According to Source Engine:

"When the median income of a group is calculated, it automatically removes those values that are at the furthest ends of the income distribution. By doing this, data calculated based on median income is able to yield a more accurate representation of the group being surveyed. As a result, median income is often preferred over per capita income by fact-finding agencies, particularly when the data are obtained from a relatively small group of individuals."

**CHANGES IN BMC 10.08.045 PROPOSED BY  
ORDINANCE 19-02 (ADJUSTMENT IN STORMWATER FEES)**

10.08.045 - Rates - Stormwater utility users.

- (a) The rates and charges of the stormwater utility shall be as follows:

The stormwater system user fee is applicable to all utility customers with accounts within the stormwater service area. All customers classified by the utility as being single-family residential (SFR) shall pay a monthly SFR base charge. All ~~other~~ Non SFR customers shall be charged based upon the amount of runoff generated by the customer or the monthly SFR base charge, whichever is greater. The amount of runoff subject to the stormwater utility rate for all Non SFR customers shall be determined by a calculation based upon the following formula, minus any credits, as approved by the Utilities Service Board:

$$SFR \text{ base charge} \times \left( \frac{\text{Runoff generated by Non SFR customer}}{\text{Runoff generated by the average SFR customer}} \right)$$

The monthly SFR base charge shall increase in two phases:

- (1) The SFR monthly base charge for the first phase shall be four dollars and thirty-two cents (\$4.32) and shall commence on July 1, 2019.
- (2) The SFR monthly base charge for the second phase shall be five dollars and ninety-five center (\$5.95) and shall commence on January 1, 2020.

- (b) These rates and charges shall be billed monthly, and all provisions of the Indiana Code, the Bloomington Municipal Code and the ~~e~~City of Bloomington U~~t~~ilities d~~e~~partment "Rules, Regulations and Standards of Service" which apply to the payment and collection of rates and charges for wastewater services shall apply equally to the rates and charges for stormwater utilities services.

(Ord. 03-24 § 2, 2003; Ord. 01-15 § 1, 2001; Ord. 99-04 § 3, 1999; Ord. 98-29 § 4, 1998).

(Ord. No. 12-28, § 1, 12-19-2012)

**ORDINANCE 19-05**

**TO AMEND TITLE 10  
OF THE BLOOMINGTON MUNICIPAL CODE  
ENTITLED “WASTEWATER”**

**(A Substantial Rewriting of Title 10 Following a Review Conducted in Concert with  
the Environmental Protection Agency)**

WHEREAS, Bloomington Municipal Code Title 10 sets forth uniform requirements for users of the publicly owned treatment works for the City of Bloomington’s Wastewater and Stormwater utilities and enables the City to comply with all applicable state and federal laws, including the Clean Water Act and the General Pretreatment Regulations established by the United States Environmental Protection Agency under 40 CFR 403; and

WHEREAS, the City of Bloomington, Indiana (the City) has constructed and has in operation a wastewater collection system for the purpose of collecting and treating wastewater and operates its pretreatment program in accordance with and under the provisions of 40 CFR 403.8 under a National Pollutant Discharge Elimination System permit; and,

WHEREAS, the United States Environmental Protection Agency has enacted new categorical pretreatment standards under 40 CFR 403 and the City of Bloomington must now amend the Bloomington Municipal Code to bring Title 10 and its pretreatment program up to the new categorical pretreatment standards; and

WHEREAS, the EPA has reviewed and conditionally approved the proposed changes to Title 10 as being in compliance with 40 CFR 403; and

WHEREAS, in addition to meeting the new categorical pretreatment standards under 40 CFR 403, Title 10 is also adding a new definition for new food service establishments to Chapter 10.17; and

WHEREAS, the City of Bloomington Utilities Service Board has reviewed the proposed ordinance and recommends to the Council that it be adopted.

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL  
OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:**

SECTION 1. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by capitalizing the words “city”, “director”, “industrial user”, “industrial users”, “publicly owned treatment works”, “user”, “users”, “utilities director”, and “utilities service board” wherever these terms appear in this title.

SECTION 2. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by replacing the term “city utilities” with the term City of Bloomington Utilities” wherever these words appears in the title.

SECTION 3. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.04.005 so that it shall read as follows:

**10.04.005 Purpose and Policy**

This Title sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Bloomington Utilities (the City) and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this title are:

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

Pursuant to this purpose and policy, The National Categorical Pretreatment Standards, as amended, are hereby incorporated into this Title by reference and made a part hereof and two (2) copies of the material are on file in the Office of City Clerk for public inspection.

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

SECTION 4. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.04.015 so that it shall read as follows:

#### **10.04.015      Abbreviations**

BOD – Biochemical Oxygen Demand  
 BMP – Best Management Practice  
 BMR – Baseline Monitoring Report  
 CFR – *Code of Federal Regulations*  
 CIU – Categorical Industrial User  
 COD – Chemical Oxygen Demand  
 EPA – U.S. Environmental Protection Agency  
 ERP – Pretreatment Program Enforcement Response Plan  
 gpd – gallons per day  
 IU – Industrial User  
 mg/l – milligrams per liter  
 NPDES – National Pollutant Discharge Elimination System  
 POTW – Publicly Owned Treatment Works  
 RCRA – Resource Conservation and Recovery Act  
 SIU – Significant Industrial User  
 SNC – Significant Noncompliance  
 TSS – Total Suspended Solids  
 U.S.C. – United States Code



SECTION 5. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.04.020 so that it shall read as follows:

**10.04.020 Definitions.**

As used in this title, the following words have the following meanings unless otherwise designated. Where words are not defined, they shall have the meanings provided in the City of Bloomington Utilities’ “Rules, Regulations and Standards of Service.”

“Act” or “the Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

“Approval authority” means the Regional Administrator, Region 5, of the United States Environmental Protection Agency.

“Authorized or Duly Authorized Representative of the User” means:

- (a) If the User is a corporation:
  - (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - (2) The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (c) If the User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (d) The individuals described in subsections (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Director.

“Base unit” means the amount that equals the average single-family residential impervious area, which is presently set at two thousand square feet but which may be adjusted by action of the Utilities Service Board.

“Best management practice” or “BMP” means management and operational procedures that are intended to prevent pollutants from entering a facility’s wastestream or from reaching a discharge point. BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in sections 40 Code of Federal Regulations (CFR) 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“Biochemical oxygen demand” or “BOD” means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty degrees centigrade, usually expressed as a concentration (e.g., mg/l).

“Board” means the Bloomington Utilities Service Board (USB) or any duly authorized representative acting in its behalf.

“Bypass” means the intentional diversion of wastestreams from any portion of the permittee’s treatment facility as specified in section 40 CFR 403.17.

“Categorical pretreatment standard” or “categorical standard” means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

“Categorical Industrial User” or “CIU” is an Industrial User who is regulated under a categorical Pretreatment Standard.

“City” or “CBU” means the City of Bloomington, Indiana acting through its Utilities Service Board.

“Chemical Oxygen Demand” or “COD” is a measure of oxygen required to oxidize all compounds, both organic and inorganic, in water.

“Control authority” is the POTW if the POTW has a pretreatment program approved by the EPA. The control authority directly regulates the Significant Industrial Users (SIUs) discharging to the POTW.

“Conventional pollutant” means those pollutants designated by the Act to include BOD, total suspended solids, pH, fecal coliform, oil and grease, and such additional pollutants which may be specified and controlled in the City’s NPDES permits for its wastewater treatment system.

“Daily Maximum” is the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

“Daily Maximum Limit” is the maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

“Discharger” means any nonresidential User who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches and all constructed devices and appliances appurtenant thereto.

“Domestic wastes” means liquid wastes from the noncommercial preparation, cooking, and handling of food or liquid wastes containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

“Environmental Protection Agency” or “EPA” means the U.S. Environmental Protection Agency or, where appropriate, the regional water division director, the Regional Administrator, or other duly authorized official of the agency.

“Existing source” means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

“Grab sample” means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen minutes.

“Impervious area” means the total hard surface area (asphalt, concrete, stone, etc.) that is contained on a lot or parcel, or within a development tract.

“Indiana University user” means any Indiana University-owned property located on the central campus which generates wastewater.

“Indirect discharge or discharge” means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

“Industrial user” or “User” means a source of indirect discharge, a non-residential user that has the potential to discharge non-domestic wastewater to the POTW, or a commercial, industrial, or government entity that has a sewer connection for domestic wastewater discharge only.

“Industrial waste” means a solid, liquid or gaseous waste resulting from any industrial manufacturing, trade, or business process or from the development, recovery or processing of natural resources.

“Instantaneous maximum allowable discharge limit” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

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

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and
- (b) Therefore is a cause of violation of any requirement of the POTW’s NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act (33 U.S.C. 1345), the Solid Waste Disposal Act (SDWA) (42 U.S.C. 6901) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

“Local Limit” means specific discharge limits developed and enforced by the City upon industrial users to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

“Medical waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis waste.

“Monthly average” means the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

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

“New Source” means:

- (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication

of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

- (1) The building, structure, facility, or installation is constructed at a site at which no other source is located;
  - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (a) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:
- (1) Begun, or caused to begin, as part of a continuous on-site construction program:
    - (A) Any placement, assembly, or installation of facilities or equipment, or
    - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment;
  - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

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

“NPDES” or “National Pollution Discharge Elimination System” means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zones, and the oceans pursuant to the Clean Water Act.

“Operation and maintenance” or “O&M” means the cost of operation and maintenance of the treatment works, including replacement costs. It means the expenses for the normal operation of the treatment works including overhead, meter reading, bill preparation, collection system costs, sewer equipment maintenance and treatment works equipment maintenance.

“Other wastes” means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

“Pass through” means 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.

“Person” means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

“pH” means a measure of the acidity or alkalinity of a solution, expressed in standard units.

“Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, heavy metals, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

“Pretreatment” means 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.

“Pretreatment Program Enforcement Response Plan” or “ERP” means a plan that contains detailed procedures indicating how the City of Bloomington Utilities will investigate and respond to instances of Industrial User noncompliance.

“Pretreatment requirements” means any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.

“Pretreatment standards” or “standards” means prohibited discharge standards, categorical Pretreatment Standards, and local limits.

“Prohibited discharge standards” or “prohibited discharges” means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Chapter 10.12 of this title.

“Publicly owned treatment works” or “POTW” means a treatment works, as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

“Public sewer” means a primary or secondary sewer in which all owners of abutting property have equal rights and which is controlled by the utility.

“Replacement costs” means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the useful life of the wastewater treatment system.

“Representative sample” means a sample from a wastestream that is as nearly identical as possible in composition to that in the larger volume of wastewater being discharged and typical of the discharge from the facility on a normal operating day.

“Residential user” means any single-family or double-family dwelling which generates wastewater.

“Rules” means “Rules, Regulations and Standards of Service” adopted by the Utilities Service Board.

“Sanitary sewer” means a sewer which carries wastewater and to which all storm, surface and groundwaters and unpolluted industrial wastewater are not intentionally admitted.

“Septic tank waste” means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

“Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

“Sewage” means water-carried human wastes including human excrement and gray water (household showers, dishwashing operation ,etc.), or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

“Sewer” means any pipe, conduit, ditch or other device used to collect and transport sewage or stormwater from the generating source.

“Shall” means mandatory.

“Significant Industrial User” means:

- (a) A User subject to categorical Pretreatment Standards; or
- (b) A User that:
  - (1) Discharges an average of twenty-five thousand gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater),
  - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or
  - (3) Is designated as such by the Director on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement;

Upon a finding that a User meeting the criteria in subsection (b) above has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a User, and in accordance with procedures in 40 CFR 403.8(f) (6), determine that such User should not be considered a Significant Industrial User.

“Significant Noncompliance or “SNC” means an Industrial User’s status for significant violations that have occurred or are occurring pursuant to 40 CFR 403.8(f)(2)(vii)(A-H) and as defined in Chapter 10.16.090. Examples of SNC violations include major exceedances of effluent limits, failure to meet compliance schedule milestones by at least 90 days of the date specified in an enforcement document or permit, and failure to submit reports, such as Discharge Monitoring Reports, within 45 days of the due date.

“Slug discharge” or “Slug” means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 10.12.010 and/or 10.12.020 of this title. A slug discharge is any discharge of a non-routine, episodic discharge, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through or in any other way violate the POTW’s NPDES permit and regulations, as well as local limits, discharger permit conditions, or prohibited discharge standards listed in Chapter 10.12 of this title.

“Standard Industrial Classification (SIC) Code” means a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

“Stormwater” means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

“Stormwater utility, stormwater works, and stormwater facilities” means all constructed pipes, mains, facilities, structures and natural water courses under the control of the Utilities Service Board used for collecting and conducting stormwater through and from drainage area to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins, and pumping stations; and excluding therefrom any part of the system of drains and water courses under the jurisdiction of the Monroe County drainage board; provided, however, that the Utilities Service Board and the Monroe County drainage board may negotiate cooperative arrangements regarding jurisdiction, design, construction, operation and maintenance of drains located outside of the municipal corporate boundaries under the authority of Indiana Code 36-9-27-1 et seq.

“Suspended solids” means 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.

“Toxic pollutant” means those substances listed in Section 307(a) (1) of the Act.

“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards due to factors beyond the reasonable control of the discharger. An operating upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

“User” or “Industrial User” means a source of indirect discharge; any person or entity that discharges, causes or permits the discharge of wastewater into the wastewater treatment system.

“Utilities Director” or “Director” means the Director of the utility and is the person designated by the City of Bloomington to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this title. The term also means a duly authorized representative of the Utilities Director.

“Utility” means the City of Bloomington Utilities comprised of water, wastewater and stormwater utilities.

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

“Wastewater treatment system” means any devices, facilities, structures, equipment or works owned by the City for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

SECTION 6. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by capitalizing the word “rules” wherever it appears in Section 10.04.025.

SECTION 7. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by capitalizing the words “section” and “rules” wherever these words appear in Section 10.04.030.

SECTION 8. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by capitalizing the words “sections” and “rules” wherever these words appear in Section 10.04.040.

SECTION 9. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by replacing the word “him” with the words “that person” as it appears in Section 10.04.060.

SECTION 10. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended in regard to Section 10.04.095 in the following manner:

- (1) The words “transmission” and “distribution” shall be capitalized wherever they appear in subsection (f); and
- (2) Subsection (h) shall be deleted and replaced so that it shall read as follows:
  - (h) All permits shall be furnished and paid for by the customer/contractor. This will include a street cut permit from either city or county engineering, and either an excavating or plumbing permit from city engineering. Permits will not be issued by city engineering unless a paid receipt for the tapping fee is presented.

SECTION 11. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.04.100 and inserting the new title of this section into the heading for this chapter. Section 10.04.100 shall read as follows:

10.04.100      **Right of Revision.**

The City of Bloomington reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this title.

SECTION 12. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting Section 10.04.110 in its entirety from Title 10, including the heading for this chapter.

SECTION 13. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.08.110 so that it shall read as follows:

10.08.110      **Special service rates.**

- (a) Special service rates shall be applicable to all Industrial Users who generate wastewater which contains any nonconventional pollutants or strengths of BOD or SS that exceed the system average strengths of three hundred parts per million BOD or three hundred parts per million SS, as determined by special laboratory analysis by the utility’s central laboratory. Other special service rates shall be charged on a case-by-case basis for toxic pollutant discharges, with the charges being based on the difficulty of treating the toxic pollutant as well as sampling, testing, and disposal charges. Strength charges are to be computed on actual measured strengths and volumes.
- (b) Special Rates. Special service rates shall be determined as follows:

Monthly service charge (per meter)	\$7.95
Special laboratory analysis (monthly charge):	
Strength of BOD and SS	\$166.90
Grease and oil	\$156.45



Metal (per metal per test)	\$34.77
User Charge	
Charge per 1,000 gallons per month for all billable usage:	
Non-excessive strength rate	\$7.76
Extra Strength Charge	
Charge per pound per month for all strength in excess of 300 ppm:	
BOD	\$0.380
Suspended Solids	\$0.310

SECTION 14. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.08.120 so that it shall read as follows:

10.08.120      **Waste haulers—Charges.**

- (a) Waste shall only be accepted for treatment by the utility if the treatment processes and final effluent are not adversely affected. All haulers shall provide the utility with the names and addresses of the Users whose waste is brought for treatment. The Director shall designate the site where the waste will be accepted.
- (b) The following types of waste may be accepted for treatment by the City of Bloomington Utilities:
  - (1) Domestic Septage. Domestic septage refers to the waste contained in, or removed from, septic tanks or holding tanks which serve residential homes or other sources which generate only food-based waste. Each truckload delivered will be assumed to be a full load unless proven otherwise by the hauler.
  - (2) Grease Waste. Grease waste is the waste contained in, or removed from, grease traps and interceptors, or other similar devices, which have been installed for the purpose of retaining the portion of the waste stream which floats on water. For the purpose of this title, grease waste refers to grease of plant or animal origin. Petroleum based oils and grease are specifically prohibited from being discharged into the wastewater system. Analysis of the grease wastes may be required before acceptance for treatment and disposal. The charge will be based on the calculated volume of the trap or interceptor. There will be no additional charge for the water used to wash the grease from the trap or interceptor.
  - (3) Wastewater Treatment Plant Waste. Wastewater treatment plant waste includes the excess solids generated at municipal or semi-public wastewater treatment plants and/or the collection systems associated with those treatment plants. The waste may be in the form of sludge, mixed liquor, lagoon dredgings, or waste from lift stations, and must be compatible with the POTW’s processes and capacities. Wastes which jeopardize compliance with the Part 503 rules concerning land application of sludge are prohibited. The Board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full.
  - (4) Commercial/Industrial Waste. Commercial/industrial waste includes wastes generated by industrial or commercial operations, or an operation which combines domestic waste with waste generated from industrial operations. This waste may be the product of some one-time operation, or may be accumulated in some form of holding tank, such as a septic tank. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the Director, or his designee, on a case-by-case basis. The Board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full.
  - (5) Out-of-County Waste. For each of the above listed categories of waste, there shall be a surcharge of fifty percent added to the respective fees for any waste which originates at any source outside the boundaries of Monroe County.
  - (6) The charge for each delivery of the types of waste described above shall be:

	Portion of Rate Applicable to		
	Operations, Maintenance, and Replacement Expenses	Capital Related Costs	Total
Domestic Septage—			
First 500 gallons	\$ 7.52	\$ 2.78	\$10.30
Each additional 100 gallons	\$0.43	\$0.16	\$0.59
Grease Waste—			
First 100 gallons	\$4.30	\$1.59	\$5.89
Each additional 100 gallons	\$4.30	\$1.59	\$5.89
Wastewater Treatment Plant Waste—			
First 500 gallons	\$16.12	\$5.96	\$22.08
Each additional 100 gallons	\$3.23	\$1.19	\$4.42
Commercial/Industrial Waste—			
First 500 gallons	\$16.12	\$5.96	\$22.08
Each additional 100 gallons	\$3.23	\$1.19	\$4.42

(c) The fees for the treatment and disposal of domestic septage shall be charged to the waste hauler with a valid Wastewater Management Business Permit issued by the Indiana Department of Environmental Management who transports the waste to the treatment facility for disposal. Any CBU-approved waste hauler may purchase tickets which authorize that hauler to dispose of one load of domestic septage.

Generators of nondomestic waste must request authorization to dispose of wastes in the utility treatment works. The application will be reviewed by staff and, if approved, the tickets for disposal of the waste may be purchased by the waste generator. Generators may purchase tickets in the manner outlined above. The generator must provide the appropriate ticket(s) to the waste hauler and the hauler must present the ticket(s) to the staff at the treatment facility as evidence that the disposal of the waste has been authorized.

Additional procedures that further promote an orderly system for the delivery, tracking and payment of these wastes may be adopted by the Board.

SECTION 15. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Chapter 10.12 and inserting the new title “General Sewer Use Requirements” in the table of contents for this title. Chapter 10.12 shall read as follows:

**Chapter 10.12**

**GENERAL SEWER USE REQUIREMENTS**

**Sections:**

- 10.12.010      General prohibitions.**
- 10.12.020      Specific prohibitions.**
- 10.12.025      Affirmative defenses.**
- 10.12.030      Emergency condition notification.**
- 10.12.040      Limitations on wastewater strength.**
- 10.12.050      Special agreements.**
- 10.12.060      Hauled waste.**

- 10.12.010      General prohibitions.**

- (a) General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements.
- (b) Director's Authority. The Director may reject any discharge to the POTW, in whole or in part, that he or she determines to have the potential to either adversely affect POTW operation or cause or contribute to a violation of the City's NPDES permit. (Ord. 12-28 § 1, 2012; Ord. 06-11 § 7, 2006).

**10.12.020 Specific prohibitions.**

- (a) No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (sixty degrees Celsius) using the test methods specified in 40 CFR 261.21;
  - (2) Wastewater having a pH less than five (5.0) or more than ten (10.0) Standard Units or otherwise causing corrosive structural damage to the POTW or equipment;
  - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference (but in no case solids greater than one-half inch in any dimension);
  - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
  - (5) Wastewater having a temperature greater than one hundred forty degrees Fahrenheit (sixty degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (forty degrees Celsius);
  - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - (8) Trucked or hauled pollutants, except at discharge points designated by the Director in accordance with Chapter 10.08 of this title;
  - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
  - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
  - (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
  - (12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Director;
  - (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  - (14) Medical wastes, except as specifically authorized by the Director in a wastewater discharge permit;
  - (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
  - (17) Fats, oils, or grease of animal or vegetable origin in concentrations greater than one hundred fifty milligram per liter.
  - (18) Any material which may be classified as hazardous waste in accordance with 40 CFR 261.
- (b) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. Where necessary, facilities designed to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense. (Ord. 12-28 § 1, 2012; Ord. 06-11 § 8, 2006).

#### **10.12.025 Affirmative Defenses.**

- (a) It shall be an affirmative defense in any action brought by the City against any User alleging a violation of the general prohibitions established in 10.12.010 and the specific prohibitions in 10.12.020 where the User can demonstrate that:
- (1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass Through or Interference; and
  - (2) Either:
    - (A) A local limit designed to prevent Pass Through and/or Interference, as the case may be, was developed in accordance with 40 CFR 403.5(c) for each pollutant in the User's discharge that caused Pass Through or Interference, and the User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or
    - (B) If a local limit designed to prevent Pass Through and/or Interference, as the case may be, has not been developed in accordance with 40 CFR 403.5(c) for the pollutant(s) that caused the Pass Through or Interference, the User's discharge direction prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's prior discharge activity when the City was regularly in compliance with the City's NPDES permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.

#### **10.12.030 Emergency condition notification**

- (a) An emergency condition is the occurrence of an upset, bypass, slug discharge or accidental discharge of substances prohibited by this title or substances regulated by 40 CFR Part 403.5. In the event of an emergency condition, the discharger must provide the following information to the Director within one hour of discovery:
- (1) A description of the emergency condition, including the location, type of waste, concentration and volume; and cause of the emergency condition;
  - (2) The period of noncompliance, including exact dates and times or, if not yet corrected, the anticipated time the period of noncompliance is expected to continue;
  - (3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the emergency condition.
- (b) Any discharger who discharges a slug load of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.
- (c) Within five days following such discharge, the discharger shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such

notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this title.

- (d) The discharger's notification of emergency conditions to the City in accordance with this section does not relieve it of any other reporting requirements that arise under local, state, or federal laws. (Ord. 12-28 § 1, 2012).

**10.12.040 Limitations on wastewater strength.**

- (a) National Categorical Pretreatment Standards. The National Pretreatment Standards found at 40 CFR Chapter I, Subchapter N (including the categorical standards) are incorporated. All Users must comply with the National Categorical Pretreatment Standards.

- (1) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6 and the following requirements:

- (A) To be eligible for mass limits, the Industrial User must:

- (i) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;
      - (ii) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
      - (iii) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
      - (iv) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge, and;
      - (v) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

- (B) An Industrial User subject to equivalent mass limits must:

- (i) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
      - (ii) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
      - (iii) Continue to record the facility's production rates and notify the Director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in BMC § 10.12.040(a)(iii). Upon notification of a revised production rate, the Director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
      - (iv) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to BMC § 10.12.040(a) (i).

- (C) When developing equivalent mass limits, the Director:

- (i) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
      - (ii) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

- (iii) May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to BMC § 10.12.040(a) (7). The Industrial User must also be in compliance with BMC § 10.16.130.
  - (2) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
  - (3) The Director may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director.
  - (4) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
  - (5) A User may obtain a variance from a categorical Pretreatment Standard if the User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical Pretreatment Standard.
  - (6) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both average and the maximum equivalent limitation.
  - (7) No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.
  - (8) Reporting of Changes in Production. Any Industrial User operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the control authority within two business days after the User has a reasonable basis to know that the production level will increase or decrease by 20% or greater within the next calendar month.
  - (9) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director within two business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.
  - (10) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.
- (b) Net/Gross Adjustment. Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Director. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (c) of this Section are met.

- (c) The criteria for determining whether a credit will be granted shall include:
- (1) Either:
    - (A) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or
    - (B) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
  - (2) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User’s effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
  - (3) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.
  - (4) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Director may waive this requirement if it finds that no environmental degradation will result.
- (d) Local Limits. No Significant Industrial User or other authorized Industrial User shall discharge wastewater that exceeds the following limits:

Pollutant <sup>(a)</sup>	Daily Maximum Discharge Limit (mg/L)
Arsenic	0.24
Cadmium	0.071
Chromium	1.43
Copper	0.846
Lead	0.24
Mercury	0.009
Nickel	1.91
Selenium	0.22
Silver	0.34
Zinc	1.34

(\*) All Pollutants as Total and in mg/L unless otherwise specified.

- (1) The Director may, at his or her sole discretion, implement local limits through allocation of the Maximum Allowable Industrial Load (MAIL) to Significant Industrial Users which correspond to the uniform concentration local limits shown in the table above. The MAILs that correspond to the Daily Maximum Discharge Limits are hereby incorporated by reference.
- (2) The following limits shall apply to wastewaters that are discharged from the groundwater cleanup of petroleum or gasoline underground storage tanks or other remediation wastewaters containing these pollutants or where these pollutants are appropriate surrogates. It shall be unlawful for

any permitted Industrial User to discharge or cause to be discharged any waste or wastewater that exceeds the following limits, as applicable:

Pollutant <sup>(c)</sup>	Daily Maximum Limit (mg/L)
Benzene <sup>(a)</sup>	0.050
BTEX <sup>(b)</sup>	0.750

- (\*) All pollutants shown in the Table are total.
  - (\*\*) BTEX shall be measured as the sum of Benzene, Ethylbenzene, Toluene and Xylenes.
  - (\*\*\*) These limits are based upon installation of air stripping technology as described in the EPA document: “Model NPDES Permit for Discharges Resulting from the Cleanup of Gasoline Released from Underground Storage Tanks. June 1989.”
- (3) The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.
  - (4) The Director may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits, to implement Local Limits and the requirements of Title 10.

10.12.050      **Special agreements.**

Nothing in this title shall be construed as preventing any special agreement or arrangement between the utility and any User of the wastewater treatment system in which wastewater of unusual strength or character is accepted into the system and specially treated. Any such agreement shall be subject to any charges that may be applicable. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 2 (part), 1985).

10.12.060      **Hauled waste.**

- (a) Waste shall only be accepted for treatment by the utility if the treatment processes and final effluent are not adversely affected. All haulers shall provide the utility with the names, addresses, and telephone numbers of the Users whose waste is brought for treatment. The Director shall designate the site where the waste will be accepted.
- (b) The following types of waste may be accepted for treatment by the City:
  - (1) Domestic Septage. Domestic septage refers to the waste contained in, or removed from, septic tanks or holding tanks which serve residential homes or other sources which generate only residential food-based waste. Each truckload delivered will be assumed to be a full load unless proven otherwise by the hauler;
  - (2) Grease Waste. Grease waste is the waste contained in, or removed from, grease traps and interceptors, or other similar devices, which have been installed for the purpose of retaining the portion of the wastestream which floats on water. For the purpose of this document, grease waste refers to grease of plant or animal origin. Petroleum based oils and grease are specifically prohibited from being discharged into the wastewater system. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the Director, or his designee, on a case-by-case basis. Analysis of the grease wastes may be required before acceptance for treatment and disposal. The charge will be based on the calculated volume of the trap or interceptor. There will be no additional charge for the water used to wash the grease from the trap or interceptor;



- (3) Wastewater Treatment Plant Waste. Wastewater treatment plant waste includes the excess solids generated at municipal or semi-public wastewater treatment plants and/or the collection systems associated with those treatment plants. The waste may be in the form of sludge, mixed liquor, lagoon dredgings, or waste from lift stations, and must be compatible with the treatment system's processes and capacities. Wastes which jeopardize compliance with the 40 CFR Part 503 rules concerning land application of sludge are prohibited. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the Director, or his designee, on a case-by-case basis. The Board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full;
  - (4) Commercial/Industrial Waste. Commercial/industrial waste includes wastes generated by industrial or commercial operations, or an operation which combines domestic waste with waste generated from industrial operations. This waste may be the product of some one-time operation, or may be accumulated in some form of holding tank, such as a septic tank. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the Director, or his designee, on a case-by-case basis. The Board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full;
  - (5) Out-of-County Waste. For each of the above listed categories of waste, there shall be a surcharge of fifty percent added to the respective fees for any waste which originates at any source outside the boundaries of Monroe County.
- (c) Hauled waste may be introduced into the POTW only at locations designated by the Director, and at such times as are established by the Director. The Director may require the hauler to provide a waste analysis of any load prior to discharge or the Director may collect samples of each hauled load to ensure compliance with this title. Waste haulers shall be required by the Director to provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names, addresses, and telephone numbers of sources of waste, and volume and category of waste. The Director may establish operating rules, in addition to those rules listed in this section.

SECTION 16. Title 10 of the Bloomington Municipal Code entitled "Wastewater" shall be amended by deleting and replacing Chapter 10.16 and this chapter, which includes the table of contents, shall read as follows:

## **Chapter 10.16**

### **INDUSTRIAL WASTEWATER DISCHARGERS**

#### **Sections:**

- |                  |   |
|------------------|---|
| <b>10.16.005</b> | <b>Legal authority.</b>                         |
| <b>10.16.010</b> | <b>Wastewater dischargers.</b>                  |
| <b>10.16.015</b> | <b>Compliance schedules.</b>                    |
| <b>10.16.020</b> | <b>Wastewater discharge permits.</b>            |
| <b>10.16.030</b> | <b>Reporting requirements for permittee.</b>    |
| <b>10.16.035</b> | <b>Wastewater sample collection.</b>            |
| <b>10.16.040</b> | <b>Monitoring facilities.</b>                   |
| <b>10.16.050</b> | <b>Right of entry: inspection and sampling.</b> |
| <b>10.16.060</b> | <b>Monitoring waivers.</b>                      |
| <b>10.16.070</b> | <b>False statements.</b>                        |
| <b>10.16.080</b> | <b>Confidential information.</b>                |
| <b>10.16.090</b> | <b>Annual Publication.</b>                      |
| <b>10.16.100</b> | <b>Permit appeals.</b>                          |
| <b>10.16.110</b> | <b>Upsets.</b>                                  |
| <b>10.16.120</b> | <b>Pass through and interference.</b>           |

- 10.16.130 Bypass.**
- 10.16.140 Records retention.**
- 10.16.150 Fees.**
- 10.16.160 Regulation of wastes from other jurisdictions.**

**10.16.005 Legal authority.**

The Pretreatment Program was developed as required by 40 CFR 403.8(a). The Director has the legal authority to:

- (a) Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit;
- (b) Require compliance with applicable Pretreatment Standards and Requirements by Industrial Users;
- (c) Control through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements. In the case of Industrial Users identified as significant under 403.3(v), this control shall be achieved through individual permits. (Ord. 12-28 § 1, 2012).

**10.16.010 Wastewater dischargers.**

It shall be unlawful for any Significant Industrial User to discharge sewage, industrial wastes or other wastes to any sewer within the jurisdiction of the City, and/or to the POTW without a permit issued by the City. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985). The City may require non-permitted Industrial Users to comply with reporting requirements set forth in 10.16.030 at the discretion of the Director.

**10.16.015 Compliance schedules.**

The requirements of this section shall apply to both permitted and non-permitted discharges.

- (a) Where additional pretreatment, installation of technology, and/or operation and maintenance activities will be required to comply with this title, the industrial discharger shall provide a declaration of the shortest compliance schedule by which the industrial discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.
- (b) The compliance schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial discharger to comply with the requirements of this title including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, installation of technology required to meet applicable Pretreatment Standards and Requirements, and all other acts necessary to achieve compliance with this title.
- (c) Under no circumstances shall the City permit a time increment for any single step directed toward compliance which exceeds nine months.
- (d) Not later than fourteen days following each milestone date in the schedule and the final date for compliance, the industrial discharger shall submit a progress report to the City, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay,

and the steps being taken by the industrial discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the City. (Ord. 12-28 § 1, 2012).

#### **10.16.020 Wastewater discharge permits.**

No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Director. The Director may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this title. All existing industrial dischargers connected to or discharging to the POTW shall obtain a wastewater discharge permit within ninety days after the effective date of the ordinance codified in this title. Any violation of the terms and conditions of an industrial wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to sanctions set forth in this Chapter 10.30 of this title.

- (a) Permit Application. Industrial dischargers shall complete and file with the City, a permit application in the form prescribed by the City, and accompanied by the appropriate fee. Existing industrial dischargers shall apply for a wastewater discharge permit within thirty days after the effective date of the ordinance codified in this chapter, and proposed new industrial dischargers shall apply at least ninety days prior to connecting to the POTW. No discharge permit shall be issued unless and until the following conditions have been met:
- (1) Disclosure of name, address, and location of the discharger;
  - (2) Disclosure of standard industrial classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
  - (3) Disclosure of wastewater constituents and characteristics, including, but not limited to, those mentioned in this title, including Section 307 of the Act as appropriate, as determined by bona fide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR, Part 136, and 40 CFR 403.12 as amended;
  - (4) Disclosure of time and duration of discharges;
  - (5) Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the City due to cost or nonfeasibility;
  - (6) Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;
  - (7) Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the City;
  - (8) Disclosure of the nature and concentration of any pollutants or materials prohibited by this title in the discharge, together with a statement regarding whether or not compliance is being achieved with this title on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the industrial discharger to comply with this title;
  - (9) Where additional pretreatment and/or operation and maintenance activities will be required to comply with this title, the industrial discharger shall provide a declaration of the shortest compliance schedule by which the industrial discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.
  - (10) Users shall provide wastewater treatment as necessary to comply with this title and shall achieve compliance with all categorical Pretreatment Standards, permit limits, local limits, and the prohibitions set out in Chapter 10.12 of this title within the time limitations specified by EPA, the state, or the Director, 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 acceptable to 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 title;

- (11) Disclosure of each product produced by type, amount, process or processes and rate of production;
  - (12) Disclosure of the type and the amount of raw materials utilized (average and maximum per day);
  - (13) All permit applications for new or modified permits shall be signed by an authorized representative of the User;
  - (14) All sewers shall have an inspection and sampling manhole or structure with an opening of no less than twenty-four inches diameter and an internal diameter of no less than thirty-six inches containing flow measuring, recording and sampling equipment as required by the City to assure compliance with this title. The City will evaluate the complete application and data furnished by the industrial discharger and may require additional information. Within thirty days after full evaluation and acceptance of the data furnished, the City shall issue a wastewater discharge permit subject to terms and conditions provided herein.
  - (15) Develop, submit to the City for approval, and implement a Slug Control Plan pursuant to section 10.16.030(g).
- (b) Permit Terms and Conditions. The terms and conditions of each wastewater discharge permit shall include, but not be limited to, the following:
- (1) Fees and charges to be paid upon initial permit issuance;
  - (2) Effluent limits, Best Management Practices, Categorical Pretreatment Standards, local limits, State and local laws, and effluent limits on the average and maximum wastewater constituents and characteristics regulated thereby;
  - (3) Effluent limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;
  - (4) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
  - (5) Special conditions as the City may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
  - (6) Any grant of a monitoring waiver by the Director (Section 10.16.060) must be included as a condition in the User's permit;
  - (7) Compliance schedules and progress reports as required by Chapter 10.16.015 of this title;
  - (8) Requirements for submission of special technical reports or discharge reports where same differ from those prescribed by this title;
  - (9) A Slug Control Plan as required by Chapter 10.16.030(g) of this Title;
  - (10) A statement of duration (effective date and termination date);
  - (11) A statement of non-transferability;
  - (12) Requirements for Self-monitoring, sampling, reporting, notification, and recordkeeping. These requirements shall include an identification of pollutants or best management practices to be monitored, sampling location, sampling frequency, and sample type based on Federal, state, and local law;
  - (13) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge;
  - (14) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines;
- (c) Permit effective date. The effective date of the wastewater discharge permit is the date in which the USB approves and signs the permit.

- (d) **Permit Duration.** No wastewater discharge permit shall exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- (e) **Permit Renewal.** Wastewater discharge permits are renewable. To renew a wastewater discharge permit the permittee must apply for renewal no later than four (4) months prior to the expiration date of the permit. Otherwise the permittee must apply for a new permit.
- (f) **Permit Transfer and Assignment.** Wastewater discharge permits are issued to a specific User at a specific location for a specific operation, and are not assignable to any other User and are not transferable to any other location, without prior written authorization from the Director.
- (g) **Permit Modification.**
  - (1) The City may modify any wastewater discharge permit in order to ensure the City's compliance with applicable laws and regulations.
  - (2) **Changes in National Categorical Pretreatment Standard.**
    - (A) No later than 180 days after the promulgation of any applicable National Categorical Pretreatment Standard, all industrial dischargers shall submit to the City the information required by subsections (a)(8) and (a)(9) of this section.
    - (B) No later than nine months after the promulgation of any applicable National Categorical Pretreatment Standard, the wastewater discharge permit of each industrial discharger subject to such standards shall be modified to reflect such standards.
  - (3) All industrial dischargers shall be informed of any proposed modifications in their permit at least sixty days prior to the effective date of modification.
  - (4) Any modification to a permit shall include a reasonable time schedule in which the industrial discharger shall comply.

**10.16.030 Reporting requirements for permittee.**

- (a) **Date of submittal.**  
All mailed reports are deemed submitted on the date postmarked. All hand delivered reports are deemed submitted on the date of receipt stamped by the City on the report.
- (b) **Report on Compliance with Categorical Pretreatment Standard Deadline - Compliance Date Reports.**  
All industrial dischargers subject to this title shall submit to the City a Compliance Date Report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons.
  - (1) The Compliance Date Report shall be submitted to the City no later than ninety (90) days following the date for final compliance by the industrial discharger with applicable pretreatment standards set forth in this title or ninety days following commencement of the introduction of wastewater into the POTW by a new discharger.
  - (2) The Compliance Date Report shall include the following information:
    - (a) The information described in Chapter 10.16.030(f) (4) (e-g) of this Title.
    - (b) Sampling must be performed in accordance with procedures set out in Chapter 10.16.035 of this title.
    - (c) For Industrial Users subject to equivalent mass or concentration limits established by the CBU in accordance with the procedures set forth in Chapter 10.12.040(a) of this Title, this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial 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.

(c) Periodic Compliance Schedule Reports.

(1) A Periodic Compliance Schedule Report shall be submitted to the City by the following Users:

- (A) All industrial dischargers subject to a categorical Pretreatment Standard set forth in this title, and
- (B) Any permitted Industrial User not subject to a categorical Pretreatment Standard set forth in this title.

(2) Unless required more frequently by the City, the Periodic Compliance Schedule Report is due in January and July of each year following establishment of the compliance date for pretreatment standards, or, in the case of a new industrial discharger, after commencement of discharge to the City. The City, for good cause shown, considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize the submission of said reports on months other than those specified above.

(3) The Periodic Compliance Schedule Report shall include the following:

- (A) The nature and concentration of prohibited or regulated substances in the effluent which are limited by any Pretreatment Standards;
- (B) A record of all measured or estimated average and maximum daily flows during the reporting period. Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques;
- (C) In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User;
- (D) All results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the City.
- (E) All analytical data generated by the analytical methods listed in their industrial waste pretreatment permit. This includes any analytical data generated, and associated chain-of-custody forms, in addition to the sampling frequency listed in the industrial pretreatment permit. All analyses shall be performed in accordance with 40 CFR, Part 136 and 40 CFR 403.12 and amendments, thereto.
- (F) Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U.S. EPA.

(4) Record Retention and Maintenance.

Any Industrial User and POTW subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including chain-of-custody forms and documentation associated with Best Management Practices.

(A) These records shall include for all samples:

- (i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; and
- (v) The results of such analyses.

- (B) These records shall remain available for a period of at least three years.
- (5) Permittees who implement and adhere to Best Management Practices as required by a categorical Pretreatment Standard must submit documentation of compliance with such requirements.
- (d) Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by a User indicates a violation, the User must notify the Director within twenty-four hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty days after becoming aware of the violation.
- (e) Application Signatories and Certification.
  - (1) All wastewater discharge permit applications and User reports must be signed by an Authorized Representative of the User and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”
  - (2) All requests for monitoring waivers must be signed by an Authorized Representative of the User and contain the following certification statement:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Chapter 10.16.030(c).”
  - (3) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.
- (f) Baseline Monitoring Reports.
  - (1) The following shall submit Baseline Monitoring Reports:
    - (A) Existing CIUs currently discharging to or scheduled to discharge to the POTW;
    - (B) New Sources (including all sources that become CIUs subsequent to the promulgation of an applicable categorical standard).
  - (2) Existing CIUs discharging or scheduled to discharge to the POTW shall submit their Baseline Monitoring Report to the Director either within one hundred eighty days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later.
  - (3) New Sources (including any Sources that become CIUs subsequent to the promulgation of an applicable categorical standard), shall submit their Baseline Monitoring Report to the Director at least ninety (90) days prior to commencement of their discharge.
  - (4) The Baseline Monitoring Report shall contain the following information:

- (A) Identifying Information. The name and address of the facility, including the name of the operator and owner.
- (B) New Sources. All new sources (including any Sources that become CIUs subsequent to the promulgation of an applicable categorical standard) shall report the method of pretreatment it intends to use to meet applicable categorical standards and shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (C) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (D) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (E) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (F) Measurement of Pollutants.
  - (i) The categorical Pretreatment Standards applicable to each regulated process.
  - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Chapter 10.16.035 of this title. In cases where the Standard requires compliance with Best Management Practice or pollution prevention alternative, the User shall submit documentation and required by the Director or the applicable Standard to determine compliance with the Standard.
  - (iii) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.
  - (iv) Sampling must be performed in accordance with procedures set out in Chapter 10.16.035 of this title.
- (G) Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (H) Compliance Schedule. If additional pretreatment, installation of technology, and/or O&M will be required to meet the pretreatment standards, the shortest compliance schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable



Pretreatment Standard. A compliance schedule pursuant to this section must meet the requirements set out in this chapter.

- (I) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with subsection (e) of this section.

(g) Slug Control Plan.

- (1) All Significant Industrial Users shall develop, submit to the City for approval, and implement a Slug Control Plan, along with their application for a wastewater discharge permit.
- (2) Slug Control Plans shall address, at a minimum, the following:
  - (A) Description of discharge practices, including nonroutine batch discharges;
  - (B) Description of stored chemicals;
  - (C) Procedures for immediately notifying the Director of any accidental or slug discharge, or any changes at its facility affecting the potential for a slug discharge.
  - (D) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.
- (3) Review and approval of such plans and operating procedures by the City shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this title.
- (4) Dischargers shall notify the City by telephone within one hour upon the discovery of an occurrence of a “slug discharge” or accidental discharge of substances prohibited by this title. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any discharger who discharges a slug load of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the City on account thereof under state or federal law.
- (5) Signs shall be permanently posted in conspicuous places on discharger’s premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such discharge with respect to emergency notification procedure.
- (6) The Industrial User shall implement the Slug Control Plan and train relevant staff on an annual basis. Training records are to be kept on file for a minimum of three years. Inspection of chemical storage areas logs and pretreatment system maintenance logs must be kept on file for a minimum of three years.
- (7) The Slug Control Plan must be updated when any changes occur at the facility that could affect the potential for a slug discharge. Such changes may include changes to emergency contact names, telephone numbers or manufacturing processes, and changes to chemical inventories or locations at the facility. The Industrial User shall notify the Director of such changes and submit an updated Slug Control Plan to the Director within 30 days of the changes occurring at the facility.

(h) Reports of Changed Conditions.

- (1) Each User shall promptly notify the POTW in advance of any significant change in the volume or character of pollutants in their discharge.
- (2) Each User shall notify the Director of any planned significant changes to the User’s operations or system which might alter the nature, quality, or volume of its wastewater at least sixty days before the change.

- (3) The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 10.16.020 of this chapter.
  - (4) The Director may issue a wastewater discharge permit or modify an existing wastewater discharge permit under Section 10.16.020 in response to changed conditions or anticipated changed conditions.
  - (5) For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty percent or greater, and the discharge of any previously unreported pollutants. (Ord. 12-28 § 1, 2012; Ord. 06-11 § 9, 2006).
- (i) It is a violation of this chapter for any User to falsify any records or reports submitted to the Utility.
  - (j) Notice of potential problems, including slug loading. All categorical and non-categorical Industrial Users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined by Chapter 10.04.020 of this Title.

#### **10.16.035 Wastewater Sample collection.**

Samples of wastewater collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, and must be representative of conditions occurring during the reporting period. The Director shall indicate the frequency of monitoring necessary to assess and assure compliance by the User with applicable Pretreatment Standards and Requirements in wastewater discharge permits.

- (a) Except as indicated in Sections (b) and (c) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the Director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Director, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Maximum Allowable Discharge Limits.
- (b) Users shall collect samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds using grab collection techniques.
- (c) Users shall collect samples in support of Compliance Date Reports and Baseline Monitoring Reports under section 10.16.030 and [40 CFR 403.12(b) and (d)], as follows:
  - (1) Facilities without historical sampling data.  
Facilities that do not have historical sampling data shall collect a minimum of four (4) grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds;
  - (2) Facilities with historical sampling data.  
Facilities that have historical sampling data shall collect a minimum of four (4) grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds unless authorized by the Director to use a lower minimum.

- (d) It is a violation of this title for any user to, in any way, tamper with, alter, manipulate or fabricate any sample collection and/or to tamper with, alter or manipulate any sample collection equipment or devices for any reason whatsoever.

**10.16.040 Monitoring facilities.**

- (a) Each industrial discharger shall provide and operate, at the industrial discharger's own expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the City. Each monitoring facility shall be situated on the industrial discharger's premises, except where such a location would be impractical or cause undue hardship on the industrial discharger, the City may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial discharger.
- (b) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within one hundred days of receipt of permit by industrial discharger. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).

**10.16.050 Right of Entry: Inspection and sampling.**

The City may inspect any properties or any monitoring facilities of any industrial discharger at any time and without notice to determine compliance with the requirements of this title. The industrial discharger shall allow the City, or its representatives, ready access at any time to all parts of the premises of the industrial discharger for the purpose of conducting any of their duties including, but not limited to, inspection, sampling, copying and/or examination of records. The City shall have the right to set up on the industrial discharger's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations at any time and without notice. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).

If the City collects samples for an Industrial User which are required by an industrial waste pretreatment permit and a violation is detected, the City must repeat sampling within 30 days of becoming aware of the exceedance. (Ord. 12-28 § 1, 2012).

**10.16.060 Monitoring waivers.**

- (a) The Director may grant an Industrial User subject to a Categorical Pretreatment Standard a monitoring waiver for a pollutant regulated by a Categorical Pretreatment Standard that the Industrial User can demonstrate is not present and is not expected to be present in the Industrial User's discharge, or is only present at background levels from intake water and without any increase in the pollutant due to the Industrial User's activities. The waiver is subject to remaining parts of this section.
- (b) A request for monitoring waiver shall, at a minimum, include:
  - (1) Sampling data and other technical factors demonstrating that the pollutant is not present and is not expected to be present in the Industrial User's discharge;
  - (2) Data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes; and
  - (3) The certification statement 10.16.030(e) (2) of this title signed by an authorized representative.

- (c) Non-detectable sample results. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- (d) The Director shall include any monitoring waiver as a condition of the Industrial User's discharge permit. The reasons supporting the waiver and any information submitted by the Industrial User in its request for the monitoring waiver must be maintained by the Director for three (3) years after expiration of the waiver.
- (e) The Director may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the EPA, where the Industrial User's total categorical wastewater flow does not exceed any of the requirements listed in 40 CFR 403.12(e)(3). (Ord. 12-28 § 1, 2012).
- (f) Exceptions and limitations.
  - (1) Monitoring waivers are not available for monitoring required for Compliance Date Reports and Baseline Monitoring Reports under section 10.16.030 and [40 CFR 403.12(b) and (d)].
  - (2) Monitoring waivers cannot be used in place of any certification process established in a categorical Pretreatment Standard such as the certification process for total toxic organic pollutants under the metal finishing regulations.
  - (3) Monitoring waivers do not supersede certification processes and requirements that are established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.
  - (4) Monitoring requirements for the pharmaceutical industry can be reduced only by the waiver procedures to a frequency of once per year and cannot be waived entirely (40 CFR 439.2(a)).
  - (5) Monitoring waivers are not available to Industrial Users that in the last two (2) years have been in Significant Noncompliance as is defined in 10.04.020 of this Title.
- (g) Duration/Expiration. Monitoring waivers expire at the end of the Industrial User's wastewater permit, or five years from the date the monitoring waiver was issued, whichever event first occurs.
- (h) Renewal. To receive a new monitoring waiver for the period of the Industrial User's next permit cycle, the Industrial User shall apply for a new monitoring waiver, including submission of all required monitoring data and certifications.
- (i) Revocation. Monitoring waivers may be revoked at any time at the Director's discretion.
- (j) Certification Statement. On each periodic report following approval of the monitoring waiver and revision of the Industrial User's permit by the Director, the Industrial User shall certify that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User, by providing the following certification statement:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1).”

- (k) If a waived pollutant is found to be present or is expected to be present in the Industrial User's discharge based on changes that occur in the Industrial User's operations, the Industrial User shall immediately do the following:
  - (1) Notify the Director that a waived pollutant is present or expected to be present in the Industrial User's discharge; and
  - (2) Comply with the monitoring and reporting requirements of 10.16.030, 10.16.035, and 10.16.040 of this section as well as any more frequent monitoring requirements that may be imposed by the Director.

**10.16.070 False statements.**

Any significant industrial user who shall knowingly or intentionally make any false report, document or statement, or provide inaccurate monetary information shall be reported to the Environmental Protection Agency for investigation of a criminal act. The City may impose additional administrative fines and civil penalties upon conviction. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).

**10.16.080 Confidential information.**

- (a) Information and data furnished to the Director with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the industrial discharger specifically requests and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the industrial discharger.
- (b) When requested by an industrial discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this title, the National Pollutant Discharge Elimination System (NPDES) Permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the industrial discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
- (c) Information accepted by the City as confidential, shall not be transmitted to any governmental agency or to the general public by the City until and unless a ten-day notification is given to the industrial discharger. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).

**10.16.090 Annual publication.**

Publication of Users in Significant Noncompliance. The Director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, during the previous twelve months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall mean:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all wastewater measurements taken for the same pollutant parameter during a six-month period exceed a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);.
- (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all wastewater measurements taken for the same pollutant parameter during a six-month period equal or exceeds the product of the numeric

Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- (c) Any other discharge violation that the Director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (d) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Director's exercise of its emergency authority to halt or prevent such a discharge;
- (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (g) Failure to accurately report noncompliance; or
- (h) Any other violation or group of violations, which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local Pretreatment program. (Ord. 12-28 § 1, 2012; Ord. 06-11 § 15, 2006).

#### **10.16.100 Permit appeals.**

Any person, including the User, may petition the Utilities Service Board to reconsider the terms of a wastewater discharge permit within forty-five (45) days of the effective date of the permit (i.e. the date the permit was approved and signed by the USB).

- (a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (c) The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal. (Ord. 12-28 § 1, 2012).

#### **10.16.110 Upsets.**

- (a) Dischargers shall follow emergency notification procedures in Section 10.12.030 within one hour upon the discovery of an upset.
- (b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c) are met. (Ord. 12-28 § 1, 2012; Ord. 06-11 § 16, 2006).
- (c) An Industrial User who wishes to establish the affirmative defense of an operating upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (1) An upset occurred and the Industrial User can identify the cause(s) of the upset;
  - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

- (3) The industrial User has met the notification requirements of paragraph (b) of this section;
- (d) In an enforcement proceeding the Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical Pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**10.16.120 Pass through and interference.**

All Industrial Users are prohibited from discharging any substance that could cause pass through or interference at the POTW. (Ord. 12-28 § 1, 2012).

**10.16.130 Bypass.**

- (a) If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Director, if possible at least 10 days before the scheduled date of the bypass.
- (b) Dischargers shall follow emergency notification procedures in Section 10.12.030 within one hour upon the discovery of an unanticipated bypass. (Ord. 12-28 § 1, 2012).
- (c) Bypass is prohibited and the City may take enforcement action against an Industrial User for a bypass, unless:
  - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - (3) The Industrial User submitted notices as required under paragraph (a) of this section.
- (d) The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in paragraph (c) of this section.

**10.16.140 Records retention.**

All industrial dischargers subject to this title shall retain and preserve for no less than three (3) years, any records, books, documents, chain-of-custody forms, training logs, inspection logs, maintenance logs, Best Management Practice compliance documentation, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of an industrial discharger in connection with its discharge. Such records shall include for all samples:

- (a) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (b) The dates analyses were performed;
- (c) Who performed the analyses;
- (d) The analytical techniques/methods use; and
- (e) The results of such analyses.

All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the City pursuant hereto shall be retained and preserved by the industrial discharger until all enforcement activities have been concluded and all periods of limitation with respect to any and all appeals have expired. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).

#### **10.16.150 Fees.**

It is the purpose of this section to provide for the payment of fees from dischargers to the City's wastewater disposal system, to compensate the City for the cost of administration of the pretreatment program established herein.

The City shall adopt charges and fees which may include:

- (a) Fees for monitoring, inspections and surveillance procedures;
- (b) Fees for permit applications (permits only);
- (c) Fees for filing appeals;
- (d) Fees for reviewing accidental discharge procedures and construction. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).

#### **10.16.160 Regulation of wastes from other jurisdictions.**

- (a) If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Director shall enter into an intermunicipal agreement with the contributing municipality.
- (b) Prior to entering into an agreement required by subsection (a) of this section, the Director shall request the following information from the contributing municipality:
  - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  - (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
  - (3) Such other information as the Director may deem necessary.
- (c) An intermunicipal agreement, as required by subsection (a) of this section, shall contain the following conditions:
  - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this title and local limits which are at least as stringent as those set out in Chapter 10.12 of this title. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's title or local limits;
  - (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
  - (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality and the Director;
  - (4) A requirement for the contributing municipality to provide (the Director) with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  - (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
  - (6) Requirements for monitoring the contributing municipality's discharge;
  - (7) A provision ensuring the Director access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the



purpose of inspection, sampling, and any other duties deemed necessary by the Director; and

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

SECTION 17. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by replacing the word “greases” with “grease” wherever it appears in Chapter 10.17.

SECTION 18. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.17.020 so that it shall read as follows:

**10.17.020 Definitions.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

- (a) “Automatic Grease Removal Device” means a mechanical device that automatically separates grease from wastewater into a container and is usually set on a timer.
- (b) “Best Management Practice” or “BMP” means management and operational procedures that are intended to prevent pollutants from entering a facility’s wastestream or from reaching a discharge point. BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in sections 40 Code of Federal Regulations (CFR) 403.5(a)(1) and (b).
- (c) “City” or “CBU” means the City of Bloomington, Indiana acting through its Utilities Service Board.
- (d) “Director” means the Director of the utility or any duly authorized representative acting on his behalf.
- (e) “Domestic wastewater” means wastewater from sanitary fixtures such as toilets and urinals.
- (f) “Food Service Establishment or “FSE” means any facility, which cuts, cooks, bakes, prepares, or serves food, or which disposes of food-related wastes. FSEs do not include residential users, but may include dormitories, nursing home facilities, fraternities, sororities, schools, hospitals, prisons and other facilities as designated by the Director.
- (g) “Garbage Disposal” means a device that shreds or grinds up solid or semisolid waste materials into smaller portions for discharge into the sanitary sewer.
- (h) “Grease” means a material composed primarily of fats, oil, and grease from animal or vegetable sources. The terms fats, oils, and grease, or FOG, shall be deemed as grease by definition.
- (i) “Grease Interceptor” means a device usually located outdoors and underground and is so constructed as to separate, trap, and hold fats, oils, and grease from the wastewater discharged by a facility to prevent these substances from entering the sanitary sewer.
- (j) “Grease Retention Device” means a device so constructed as to separate, trap, and hold fats, oils, and grease from the wastewater discharged by a facility to prevent these substances from entering the sanitary sewer. Grease retention devices include grease interceptors, grease traps, and alternative grease retention devices.

- (k) “Grease Trap” means a device usually located under or in close proximity to sinks and is so constructed as to separate, trap, and hold fats, oils, and grease from the wastewater discharged by a facility to prevent these substances from entering the sanitary sewer.
- (l) “Grease Hauler or Transporter” means one who transfers grease waste from the site of a User to an approved site for disposal and treatment. The hauler is responsible for assuring that all Federal, State, and local regulations are followed regarding waste transport and disposal.
- (m) New FSE means a food service establishment that is opening for the first time, opening in a new location, or opening under new ownership or a new name.
- (n) “Newly Remodeled FSE” means an FSE that is repairing, replacing, rearranging or installing:
  - 1. Any kitchen plumbing system;
  - 2. Any kitchen appliances, fixtures or units that attach to the plumbing system; and/or
  - 3. Any sanitary sewer lateral.

SECTION 19. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting and replacing Section 10.17.030 so that it shall read as follows:

**10.17.030 Applicability.**

This chapter shall apply to all food service establishments and to new commercial establishments being constructed in an area zoned for food service establishments.

SECTION 20. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by replacing the word “proposed” with the word “new” wherever it appears in Section 10.17.060 so that this section shall read as follows:

**10.17.060 Installation requirements for new food service establishments.**

All new FSEs that discharge wastewater into the City of Bloomington sanitary sewer system shall be required to install an approved, properly operated, and maintained grease interceptor. All interceptor units shall be of the type and capacity approved by the City. Grease interceptors shall be located so as to provide easy access to the manhole covers for maintenance and inspection activities.

SECTION 21. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting Section 10.17.090 (which appears later in this ordinance under Section 10.17.110 – see Ordinance Section 24) and replacing it with a new section. The title of the new Section 10.17.090 shall appear in the table of contents for this Chapter 10.17 and the section shall read as follows:

**10.17.090 Installation requirements for new commercial establishments.**

All proposed new commercial establishments located within an area zoned for food service establishments that discharge wastewater into the City of Bloomington sanitary sewer system shall be required to install an approved, properly operated, and maintained grease interceptor. All interceptor units shall be of the type and capacity approved by the City. Grease interceptors shall be located so as to provide easy access to the manhole covers for maintenance and inspection activities.

SECTION 22. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by deleting Section 10.17.100 (which appears later in this ordinance under Section 10.17.120 – see Ordinance Section 25) and replacing it with a new section. The title of the new Section 10.17.100 shall appear in the table of contents for this Chapter 10.17 and the section shall read as follows:

### **10.17.100 Installation Requirements for food service establishments causing or contributing to a Sanitary Sewer Overflow.**

All FSEs causing or contributing to a Sanitary Sewer Overflow into a building, on a private lateral, sewer main, or the POTW must install an approved, properly operated, and maintained grease interceptor. Grease interceptors shall be located so as to provide easy access to the manhole covers for maintenance and inspection activities. All interceptor units shall be installed outdoors of the FSE's building unless the User can demonstrate to the City that an outdoor interceptor would not be feasible.

SECTION 23. Title 10 of the Bloomington Municipal Code entitled "Wastewater" shall be amended by deleting Section 10.17.110 (which appears later in this ordinance under Section 10.17.130 – see Ordinance Section 26) and replacing it with a new section. The title for this new Section 10.17.110 shall appear in the table of contents for Chapter 10.17 and the new section shall read as follows:

#### **10.17.110 Design criteria.**

- (a) Domestic wastewater shall not be discharged into a grease retention device.
- (b) Wastewater from dishwashing sinks, mop sinks, hand sinks, and floor drains shall be discharged into a grease retention device.
- (c) Interior plumbing plans shall be submitted to the Director depicting all fixtures proposed to be connected to a grease retention device.
- (d) Grease retention device proposals shall be submitted to the Director. Grease retention devices shall not be installed without the prior approval of the Director.
- (e) Grease interceptors shall be constructed in accordance with the City of Bloomington Utilities Standard Detail #21 and shall have a minimum of two compartments with fittings designed for grease retention. The minimum size for a grease interceptor is 750 gallons. Garbage disposals and dishwashers shall not be connected to a properly sized grease interceptor.
- (f) All grease interceptors shall be designed to allow for complete access for inspection and maintenance of inner chambers as well as viewing and sampling of wastewater discharged to the sanitary sewer.
- (g) Grease traps shall be designed to allow for complete access for inspection and maintenance activities. Newly installed grease traps shall include a filter that is designed to prevent the discharge of grease from the unit. Dishwashers and garbage disposals shall not be connected to grease traps.
- (h) Alternative grease retention devices or technologies shall be subject to the approval of the Director. Such approval shall be based on demonstrated removal efficiencies of the proposed technology.
- (i) Garbage disposals are prohibited in all FSEs.

SECTION 24. Title 10 of the Bloomington Municipal Code entitled "Wastewater" shall be amended by deleting Section 10.17.120 and replacing it with a new section. The title for this new Section 10.17.120 shall appear in the table of contents for Chapter 10.17 and the new section shall read as follows:

#### **10.17.120 Best management practices.**

The following Best Management Practices or BMPs shall be implemented and adhered to by all FSEs:

- (a) Installation. All new and existing FSEs are required to install a grease retention device.

- (b) Pumping. All grease interceptors and traps shall be maintained by the User at the User's expense. Maintenance shall include the complete removal of all contents, including floating materials, wastewater, and bottom sludges and solids.
- (c) Pumping Prohibitions. Decanting or discharging of removed waste liquid back into the interceptor or trap from which the waste was removed or any other grease interceptor or trap, for the purpose of reducing the volume to be disposed, is strictly prohibited.
- (d) Grease Interceptor Maintenance Frequency. Grease interceptors must be pumped out completely a minimum of once every 90 days or more frequently if the unit has accumulated waste, both floatable and settleable, accounting for 25% of its wetted depth, as measured from the static water level to the interior tank bottom.
- (e) Grease Interceptor Reporting Requirements. Grease hauler pumping receipts must be mailed, faxed, or electronically submitted to the Director within fourteen days of the date of grease interceptor maintenance.
- (f) Grease Trap Maintenance Frequency. Grease traps must be pumped/cleaned out completely a minimum of once every 30 days or more frequently if the unit has accumulated waste, both floatable and settleable, accounting for 25% of its wetted depth, as measured from the static water level to the interior tank bottom.
- (g) Grease Trap Reporting Requirements. Each time the grease trap is cleaned out by the FSE, the FSE is required to fill out the Grease Trap Maintenance Verification Log. The log shall include the date, time, and volume of waste removed, disposal site, and signature. The logs must be kept on file at the facility for a minimum of two years and must also be made available to the Director during inspections.
- (h) If the FSE hires a grease hauler to pump out the grease trap, the FSE is required to submit the grease hauler's receipts to the Director. The receipts must be mailed, faxed, or electronically submitted to the Director within fourteen days of the date of grease trap maintenance.
- (i) Chemical Treatment. The use of chemical treatments such as bacterial additives, emulsifiers, drain cleaners, enzymes, acids, and other chemicals used to dissolve, purge, digest or remove grease from grease traps, grease interceptors, or the sanitary sewer is strictly prohibited.
- (j) Dishwashing Requirements. FSEs are required to scrape food into the trash and "dry wipe" grease from pots, pans, and dishware prior to dishwashing. Food waste is required to be disposed of in the trash. (Ord. 12-28 § 1, 2012).

SECTION 25. Title 10 of the Bloomington Municipal Code entitled "Wastewater" shall be amended by deleting Section 10.17.130 (which appears in revised form as Section 10.17.140 – see Section 27 of this ordinance) and replacing it with a new section. The title for this new Section 10.17.130 shall appear in the table of contents for Chapter 10.17 and the new section shall read as follows:

**10.17.130 Inspections.**

Authorized personnel of the City, bearing proper credentials and identification, shall have the right to enter upon all properties subject to this program, at any time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review, as part of this program.

SECTION 26. Title 10 of the Bloomington Municipal Code entitled "Wastewater" shall be amended by adding a new Section 10.17.140. The title for the new section 10.17.140 shall appear in the table of contents for Chapter 10.17 and the new section shall read as follows:

**10.17.140      Exemptions.**

Exemptions may be made at the Director’s discretion for FSEs.

SECTION 27. Title 10 of the Bloomington Municipal Code entitled “Wastewater” shall be amended by inserting a new Chapter 10.30. The title for this Chapter 10.30 shall appear in the table of contents for Title 10 and the Chapter 10.30 shall read as follows:

**CHAPTER 10.30**

**ENFORCEMENT PENALTIES AND APPEALS**

Sections:

- 10.30.005      Application; Exceptions**
- 10.30.010      Authority**
- 10.30.020      Public Nuisance**
- 10.30.030      Administrative Remedies**
- 10.30.040      Judicial Enforcement Remedies.**
- 10.30.050      Additional Remedy.**
- 10.30.060      Remedies Nonexclusive.**
- 10.30.070      Appeals**

**10.30.005      Application; Exceptions.**

This Chapter applies to all of Title 10 with the exception of Chapters 10.20 and 10.21 which have their own enforcement, penalty and appeal procedures.

**10.30.010      Authority.**

The Utilities Director is the designated enforcement official with full authority to issue permits, conduct investigations, conduct inspections, issue reports, and secure remedies, including, but not limited to, fines and injunctive relief for any violation of this title, subject to Section 10.30.005. The Utilities Director may impose any and all sanctions available for any violations at the Utilities Director’s discretion.

**10.30.020      Public Nuisance.**

A violation of any provision of this title (subject to Section 10.30.005), wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement, is a threat to public health, safety, and welfare, and is declared a public nuisance, and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

**10.30.030      Administrative Enforcement Remedies.**

When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may implement any one or more of the following administrative enforcement remedies:

- (a)      Telephone Notice. In instances where a violation has occurred and/or continues to occur, the Director may provide notice of said violation by telephonic notice to any User so violating.
- (b)      Site Visits: Inspection and Sampling. The Director may conduct site visits of any User, and shall have the right to enter the premises of any User, to determine whether the User is complying with all requirements of this title (subject to Section 10.30.005) and any individual wastewater discharge permit or order issued herein.

Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director shall be permitted to enter without delay for the purpose of performing specific responsibilities.
  - (2) The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
  - (3) The Director may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated per manufacturer's specifications, at a minimum, to ensure their accuracy.
  - (4) Upon written or verbal request of the Director, any temporary or permanent obstruction to safe and easy access to the facility to be visited, inspected and sampled, shall be promptly removed by the User at the User's expense and shall not be replaced.
  - (5) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this title (subject to Section 10.30.005).
- (c) Notice of Violation. When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve or cause to be served upon that User a written Notice of Violation clearly identifying the nature of the violation and directing the User to come into compliance within a specified period of time. The Notice of Violation may also require the User to provide a written response to the violation within a specified period of time ranging from 24 hours to 30 days.

If the User does not come into compliance within the time provided, the sewer service may be discontinued until and unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Notice of Violation also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a Notice of Violation shall not be a bar against, or a prerequisite for, taking any other action against the User.

- (d) Compliance Schedules. When the Director finds a User has violated, or continues to violate, any provision of this title (subject to 10.30.005), a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may require the User to complete a Compliance Schedule. Such a document shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as an Administrative Order pursuant to Section 10.30.030 (e) of this Title and shall be judicially enforceable. The Director may, at his discretion, issue a Compliance Schedule or allow the User to propose a Compliance Schedule for approval. Compliance Schedules issued to Industrial Users shall meet the requirements of Section 10.16.015 of this Title. A Compliance Schedule may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a Compliance Schedule relieve the User of liability for

any violation, including any continuing violation. Issuance of a Compliance Schedule shall not be a bar against, or a prerequisite for, taking any other action against the User.

- (e) **Administrative Orders.** When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), an individual wastewater discharge permit, or order issued hereunder, or another Pretreatment Standard or Requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Administrative Orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. An Administrative Order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does an Administrative Order relieve the User of liability for any violation, including any continuing violation. Issuance of an Administrative Order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (f) **Administrative Fines.** Any User that has violated, or continues to violate, any provisions of this title (subject to Section 10.30.005), wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, shall be subject to a fine of not more than two thousand five hundred dollars. Such fine shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
  - (1) Unpaid charges, fines, and penalties shall, after forty-five calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. A lien against the User's property may be sought for unpaid charges, fines, and penalties.
  - (2) Users desiring to dispute such fines must file a written request for the Director to reconsider the fine, along with full payment of the fine amount, within thirty days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (g) **Emergency Suspension of Discharge.**
  - (1) The Director may immediately suspend a User's discharge for the following reasons:
    - (A) Whenever actual or threatened discharge reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons;
    - (B) Whenever discharge presents, or may present, an endangerment to the environment; or
    - (C) Whenever discharge threatens to interfere with the operation of the POTW.
  - (2) The Director shall notify the User that an Emergency Order for Suspension of Discharge has been issued before suspension occurs.
  - (3) Any User notified of a suspension of its discharge shall immediately stop or eliminate its discharge.

- (4) If a User fails to immediately comply with an Emergency Order for Suspension of Discharge, then the Director may take such steps as deemed necessary, including immediate severance of the sewer connection.
  - (5) The emergency discharge suspension shall not be lifted until further order of the Director.
  - (6) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Chapter 10.04 or 10.16 of this title.
- (h) Termination of Discharge. The Director may terminate the discharge of any User who commits any of the following acts:
- (1) Failure to comply with any wastewater discharge permit conditions;
  - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
  - (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
  - (4) Refusal of access to the User's premises for the purpose of inspection monitoring or sampling; or
  - (5) Failure to comply with any of the pretreatment standards in Chapter 10.12 of this title.

The User shall be notified of the proposed termination of its discharge and be offered an opportunity to show cause why termination should not occur. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

- (i) Revocation of Permit. The Director may revoke the permit of any industrial discharger for good cause, including, but not limited to the following reasons:
- (1) Failure to factually report the wastewater constituents and characteristics of its discharge;
  - (2) Failure to report significant changes in wastewater constituents or characteristics prior to changed discharge;
  - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
  - (4) Falsifying self-monitoring reports and certification statements;
  - (5) Tampering with monitoring equipment;
  - (6) Failure to meet effluent limitations;
  - (7) Failure to pay fines;
  - (8) Failure to pay sewer charges;
  - (9) Failure to meet compliance schedules;
  - (10) Failure to complete a wastewater survey or the wastewater discharge permit application;
  - (11) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
  - (12) Refuses reasonable access to the industrial discharger's premises by representatives of the City for the purpose of inspection or monitoring;
  - (13) Violates the conditions of any Pretreatment Standard or Requirement, its permit, or this title (subject to Section 10.30.005), or any final judicial order entered with respect thereto;
  - (14) Causes the POTW to violate its NPDES permit; or
  - (15) Failure to adhere to the terms of a special agreement.
- (j) Press Release. When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue a press release to a local paper providing information regarding any and all violations. This information may also be included in any annual wastewater performance report to IDEM.



#### **10.30.040      Judicial Enforcement Remedies.**

When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to 10.30.005), a wastewater discharge permit, any order issued herein, or any other pretreatment standard or requirement, the Director may seek the following judicial enforcement remedies through the City Legal Department in a court of competent jurisdiction:

- (a)    Injunctive Relief. The Director may seek issuance of a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of any wastewater discharge permit or order issued herein, or any other requirement imposed by this title (subject to Section 10.30.005) on activities of the User. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar to, or a prerequisite for, taking any other action against the User.
- (b)    Civil Penalties.
  - (1)    A User who has violated, or continues to violate, any provision of this title (subject to 10.30.005), any wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of \$2,500.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
  - (2)    The Director may recover reasonable attorney fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
  - (3)    Civil liability shall be calculated by taking into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User and any other factor as justice may require.
  - (4)    Filing a suit for civil penalties shall not be a bar to, or a prerequisite for, taking any other action against the User.

#### **10.30.050      Additional Remedy.**

Violations of this Title (subject to Section 10.30.005), a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, may be referred for further enforcement, investigation and/or prosecution. Possible criminal activity, such as false reporting or illegal discharges which result in personal injury or property damage, and which could have been prevented, will be referred to the Monroe County Court for prosecution.

#### **10.30.060      Remedies Nonexclusive.**

The administrative and judicial remedies provided for in this Title (subject to Section 10.30.005) are nonexclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

#### **10.30.070      Appeals.**

- (a)    Users may appeal any written order or ruling by the Director on any matter covered by this Title (subject to Section 10.30.005).

- (b) An appeal by an industrial discharger that deals with matters of performance or compliance with this title (subject to Section 10.30.005), or deals with a wastewater discharge permit issued pursuant hereto, for which enforcement activity relating to an alleged violation is the subject, shall stay all enforcement activity pending issuance of the Utilities Service Board's written findings. This rule does not apply to emergency suspensions made under Section 10.30.030(g).
- (c) All appeals shall include the following information:
  - (1) Appellant's name;
  - (2) Appellant's address;
  - (3) A copy of the Director's order or ruling being appealed; and
  - (4) Remedy being sought by appellant.
- (d) All appeals shall be delivered to the Utilities Service Board no later than fourteen (14) days from receipt of the written order or ruling.
- (e) The Utilities Service Board shall promptly issue its findings in writing.
- (f) Any appeal of the Utilities Service Board shall be filed with a court of competent jurisdiction no later than fourteen (14) days from receipt of the Board's written findings.

SECTION 28. If any section, sentence or provision of this ordinance, or the application thereof to any person or circumstances shall be declared invalid, such invalidity shall not affect any of the other sections, sentences, provisions, or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared to be severable.

SECTION 29. This ordinance shall be in full force and effect from and after its passage by the Common Council of the City of Bloomington, approval of the Mayor and all other requirements of the Indiana Code are met.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk

City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

**SYNOPSIS**

This ordinance amends the Bloomington Municipal Code Title 10 in four substantial ways:

First, this ordinance amends Chapters 10.12 and 10.13 to update the City of Bloomington Utilities Wastewater pretreatment program to reflect the new standards enacted by the United States Environmental Protection Agency. These amendments were reviewed and provisionally approved by the Environmental Protection Agency pending approval by the City of Bloomington Common Council.

Second, this ordinance moves all pretreatment enforcement penalties and procedures to a new Chapter 10.30. These amendments were reviewed and provisionally approved by the Environmental Protection Agency pending approval by the City of Bloomington Common Council.

Third, Chapter 10.17 regarding the City of Bloomington Utilities Department’s fats, oils and grease (FOG) program has been amended to define what a new food service establishment is, better identify the existing requirement for new commercial construction sites located in an area zoned for food service establishments to install grease interceptors, and better establish the obligation of food service establishments that cause or contribute a sanitary sewer overflow to install a grease interceptor. The amendments also prohibit the use of garbage disposals in all food service establishments. These amendments were reviewed and provisionally approved by the Environmental Protection Agency pending approval by the City of Bloomington Common Council.

Fourth, this ordinance cleans up Title 10 formatting in many sections by replacing large paragraphs with outlines in an attempt to make reading this Title easier.

**LEGAL DEPARTMENT  
MEMORANDUM**

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TO: City of Bloomington Common Council  
FROM: Christopher J. Wheeler, Assistant City Attorney  
RE: Ordinance 19-05  
DATE: January 24, 2019

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The Wastewater Utility operates and maintains the City's municipal sewer system which, in addition to hundreds of miles of sewer mains and laterals, includes two wastewater treatment facilities. These treatment facilities treat the City's wastewater before returning the treated water back into the waters of the United States. An integral part of this process is the National Pollutant Discharge Elimination System (NPDES) Permit issued by the United States Environmental Protection Agency to the City of Bloomington Utilities Department. The Clean Water Act prohibits anybody, including the City of Bloomington, from discharging "pollutants" through a "point source" into a "water of the United States" unless they have an NPDES permit. The permit will contain limits on what you can discharge, monitoring and reporting requirements, and other provisions to ensure that the discharge does not hurt water quality or people's health. In essence, the permit translates general requirements of the Clean Water Act into specific provisions tailored to the operations of each person discharging pollutants.

The national pretreatment program is a component of the NPDES program. It is a cooperative effort of federal, state, and local environmental regulatory agencies established to protect water quality. Similar to how EPA authorizes the NPDES permit program to state, tribal, and territorial governments to perform permitting, administrative, and enforcement tasks for discharges to surface waters (NPDES program), EPA and authorized NPDES state pretreatment programs approve local municipalities to perform permitting, administrative, and enforcement tasks for discharges into the municipalities' publicly owned treatment works (POTWs). The EPA delegates authority for industrial pretreatment permitting, administrative and enforcement tasks directly to the local municipalities in Indiana. These programs, including Bloomington's, are designed to:

- Protect POTW infrastructure, and
- Reduce conventional and toxic pollutant levels discharged by industries and other nondomestic wastewater sources into municipal sewer systems and into the environment.

Recently the EPA adjusted its pretreatment standards. As a result, municipalities have been charged with updating their own pretreatment standards in order to bring them into line with the EPA and to ensure that municipalities stay in compliance with their NPDES permits.

Title 10 of the Bloomington Municipal Code contains the City of Bloomington's pretreatment program which establishes the City's ability to perform permitting, administrative, and enforcement tasks for discharges into the City's POTW. For several years the City of Bloomington Utilities Department has been working with the EPA to amend Title 10. These amendments went through several drafts and review cycles with the EPA. On December 20, 2018, CBU received a letter from the EPA advising that the Title 10 amendments are tentatively approved. On January 22, 2019, the Utilities Service Board passed Resolution 19-01 approving these amendments. CBU now asks the Common Council to pass and adopt these proposed amendments.

In addition to updating the pretreatment standards, these amendments also do the following:

- Move all pretreatment enforcement penalties and procedures to a new chapter at the end of the title. The new chapter includes some new language for enforcement, penalties and procedures which were recommended by the EPA. These amendments were reviewed and provisionally approved by the EPA pending approval by the City of Bloomington Common Council.
- Amend Chapter 10.17 regarding the City of Bloomington Utilities Department's fats, oils and grease (FOG) program as follows:
  - Defines a "new food service establishment";
  - Better identifies the existing requirement for new commercial construction sites located in an areas zoned for food service establishments to install grease interceptors;
  - Obligates any food service establishments that cause or contribute a sanitary sewer overflow to install a grease interceptor;
  - Prohibits the use of garbage disposals in all food service establishments.

These amendments were reviewed and tentatively approved by the EPA. The National Pretreatment Program implements Clean Water Act requirements to control pollutants that are introduced into POTWs. As part of this program, EPA has promulgated General Pretreatment Regulations that require the establishment of State and local pretreatment programs to control pollutants which pass through or interfere with POTW treatment processes or may contaminate POTW sewage sludge. Meeting these requirements may require elimination of interference caused by the discharge to POTWs of Fats, Oils, and Grease (FOG) from food service establishments (FSE). More specifically, the Pretreatment Program regulations at 40 CFR 403.5(b)(3) prohibit "solid or viscous pollutants in amounts which will cause obstruction" in the POTW and its collection system.

According to the EPA, fats, oils and grease from restaurants, homes, and industrial sources is the most common cause (47%) of combined sewer overflows (CSOs) and sanitary sewer overflows (SSOs). Grease is particularly problematic because it solidifies, reduces conveyance capacity, and blocks flow." *See Impacts and Controls of CSOs and SSOs, EPA-833-R-04 001, August 2004.* The remedy, according to the EPA, is to strengthen federal, state and local control over FOG discharges which helps POTWs prevent blockages that impact CSOs and SSOs, which cause public health and water quality problems. In particular, controlling FOG discharges from FSEs is an essential element in controlling CSOs and SSOs and ensuring proper operations for POTWs.

- Clean up some formatting in several sections by replacing large paragraphs with outlines and reorganizes some sections all in an attempt to make reading this Title easier.

**TO AMEND TITLE 10  
OF THE BLOOMINGTON MUNICIPAL  
CODE ENTITLED “WASTEWATER”  
(A Substantial Rewriting of Title 10 Following a Review Conducted  
in Concert with the Environmental Protection Agency)**

**Supplemental Materials**

**Redline Version of Title 10**

*(Note – An early version that does not include final edits – which were  
largely changes in format and not substance)*

**Chapters:**

**Title 10** ~~WASTEWATER~~<sup>44</sup>

**Footnotes:**

**(1)**

**Editor's note** — Ord. No. 12-28, § 1, adopted Dec. 19, 2012, amended the Code by repealing former Title 10, Chs. 10.04, 10.08, 10.12, 10.16, 10.20 and 10.21, and adding a new Title 10 as set out herein. The historical notation of the previous Title 10 has been retained with the relevant sections:

- 10.04** **General Rules**
- 10.08** **Wastewater Rates and Charges**
- 10.12** **General Sewer Use Requirements**
- 10.16** **Industrial Wastewater Dischargers**
- 10.17** **Food Service Establishment Wastewater Dischargers**
- 10.20** **Illicit Stormwater Connection and Discharge**
- 10.21** **Construction Site and Post Construction Stormwater Control**
- 10.30** **Enforcement, Penalties and Appeals**

**Chapter 10.04—**  
**GENERAL RULES**

- Sections:**
- 10.04.005** **Purpose and Policy.**
  - 10.04.010** **Administration.**
  - 10.04.015** **Abbreviations.**
  - 10.04.020** **Definitions.**
  - 10.04.025** **Posting of rules.**
  - 10.04.030** **Wastewater main connections and construction.**
  - 10.04.040** **Extension of wastewater mains.**
  - 10.04.050** **Mandatory connections.**
  - 10.04.060** **Construction and abatement of defective privies or septic systems.**
  - 10.04.070** **Personal sewer sludge use.**
  - 10.04.080** **Admission to property.**
  - 10.04.090** **Illegal connections.**
  - 10.04.095** **Tapping existing sewer mains.**
  - 10.04.100** **Right of revision. Enforcement Procedures.**
  - 10.40.110** **Penalties.**

**10.04.005 - Purpose and policy.**

This title sets forth uniform requirements for ~~users~~ of the ~~publicly-owned treatment works~~**Publicly Owned Treatment Works** for the ~~city utilities~~**City of Bloomington Utilities** (the city) and enables the ~~city~~**City** to comply with all applicable ~~state~~**State** and ~~federal~~**Federal** laws, including the Clean Water Act (33 ~~USC~~**United States Code** [U.S.C.] ~~section~~ 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the ~~Code of Federal Regulations~~ [CFR-~~part~~] **Part** 403). The objectives of this title are:

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- (a) To prevent the introduction of pollutants into the ~~publicly-owned treatment works~~Publicly Owned Treatment Works that will interfere with its operation;
- (b) To prevent the introduction of pollutants into the ~~publicly-owned treatment works~~Publicly Owned Treatment Works that will pass through the ~~publicly-owned treatment works~~Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the ~~publicly-owned treatment works~~Publicly Owned Treatment Works;
- (c) To protect both ~~publicly-owned treatment works~~Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (d) To promote reuse and recycling of industrial wastewater and sludge from the ~~publicly-owned treatment works~~Publicly Owned Treatment Works;
- (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the ~~publicly-owned treatment works~~Publicly Owned Treatment Works; and
- (f) To enable the ~~city~~City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the ~~publicly-owned treatment works~~Publicly Owned Treatment Works is subject.

Pursuant to this purpose and policy, The National Categorical Pretreatment Standards, as amended, are hereby incorporated into this Title by reference and made a part hereof.

This title shall apply to all users of the ~~publicly-owned treatment works~~Publicly Owned Treatment Works. The title authorizes the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires ~~user~~User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. No. 12-28, § 1, 12-19-2012)

**10.04.010 - Administration.**

Except as otherwise provided herein, the ~~utilities director~~Utilities Director shall administer, implement, and enforce the provisions of this title. Any powers granted to or duties imposed upon the ~~utilities director~~Utilities Director may be delegated by the ~~utilities director~~Utilities Director to a duly authorized ~~city~~City employee.

(Ord. No. 12-28, § 1, 12-19-2012)

**10.04.015 - Abbreviations.**

BOD - ~~biochemical oxygen demand~~Biochemical Oxygen Demand

BMP - ~~best management practice~~Best Management Practice

BMR - ~~baseline monitoring report~~Baseline Monitoring Report

CFR - Code of Federal Regulations

CIU - ~~categorical industrial user~~Categorical Industrial User

COD - ~~chemical oxygen demand~~Chemical Oxygen Demand

EPA - U.S. Environmental Protection Agency

ERP - ~~pretreatment program enforcement response plan~~Pretreatment Program Enforcement Response Plan

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gpd - gallons per day

IU - ~~industrial user~~Industrial User

mg/l - milligrams per liter

NPDES - National Pollutant Discharge Elimination System

POTW - ~~publicly owned treatment works~~Publicly Owned Treatment Works

RCRA - Resource Conservation and Recovery Act

SIU - ~~significant industrial user~~Significant Industrial User

SNC - ~~significant noncompliance~~Significant Noncompliance

TSS - ~~total suspended solids~~Total Suspended Solids

USC - United States Code

(Ord. No. 12-28, § 1, 12-19-2012)

#### **10.04.020 - Definitions.**

As used in this title, the following words have the following meanings unless otherwise designated. Where words are not defined, they shall have the meanings provided in the ~~city utilities~~City Of Bloomington Utilities "Rules, Regulations and Standards of Service."

"Act" or "the Act" means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

"Approval authority" means the ~~Indiana Department~~Regional Administrator, Region 5, of the United States Environmental Management Protection Agency.

"Authorized or ~~duly authorized representative~~Duly Authorized Representative of the ~~user~~User" means:

(a) If the ~~user~~User is a corporation:

- (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
- (2) The manager of one or more manufacturing, production, or operation facilities ~~employing more than two hundred fifty persons or having gross annual sales or expenditures exceeding twenty-five million dollars (in second quarter 1980 dollars), if, provided the manager authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where~~ authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the ~~user~~User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(c) If the ~~user~~User is a federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

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- (d) The individuals described in subsections (a) through (c), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the ~~director~~Director.

"Base unit" means the amount that equals the average single-family residential impervious area, which is presently set at two thousand square feet but which may be adjusted by action of the ~~utilities service board~~Utilities Service Board.

"Best management practice" or "BMP" means management and operational procedures that are intended to prevent pollutants from entering a facility's wastestream or from reaching a discharge point. BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in section 40 Code of Federal Regulations (CFR) 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

"Biochemical oxygen demand" or "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty degrees centigrade, usually expressed as a concentration (e.g., mg/l).

"Board" means the Bloomington Utilities Service Board (USB) or any duly authorized representative acting in its behalf.

"Bypass" means the intentional diversion of wastestreams from any portion of the permittee's treatment facility as specified in section 40 CFR 403.17.

"Categorical pretreatment standard" or "categorical standard" means any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of ~~users~~Users and which appear in section 40 CFR chapter I, subchapter N, parts 405-471.

"Categorical industrial user" or "CIU" is an industrial user who is regulated under a categorical ~~pretreatment standard~~Pretreatment Standard.

"City" or "CBU" means the City of Bloomington, Indiana, acting through its ~~utilities service board~~Utilities Service Board.

"Chemical oxygen demand" or "COD" is a measure of oxygen required to oxidize all compounds, both organic and inorganic, in water.

~~"Commercial user" means any user other than a residential user, Indiana University user or industrial user as defined in this section.~~

"Control authority" is the POTW if the POTW has a pretreatment program approved by the EPA. The control authority directly regulates the significant industrial users (SIUs) discharging to the POTW.

"Conventional pollutant" means those pollutants designated by the Act to include BOD, total suspended solids, pH, fecal coliform, oil and grease, and such additional pollutants which may be specified and controlled in the ~~city's~~City's NPDES permits for its wastewater treatment system.

"Daily maximum" is the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

"Daily maximum limit" is the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

"Discharger" means any nonresidential ~~user~~User who discharges an effluent into a POTW by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, intercepting ditches and all constructed devices and appliances appurtenant thereto.

"Domestic wastes" means liquid wastes from the noncommercial preparation, cooking, and handling of food or liquid wastes containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions.

"Environmental Protection Agency" or "EPA" means the U.S. Environmental Protection Agency or, where appropriate, the regional water ~~management~~ division director, the Regional Administrator, or other duly authorized official of the agency.

"Existing source" means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical ~~pretreatment standards~~Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

"Grab sample" means a sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen minutes.

"Impervious area" means the total hard surface area (asphalt, concrete, stone, etc.) that is contained on a lot or parcel, or within a development tract.

"Indiana University user" means any Indiana University-owned property located on the central campus which generates wastewater.

"Indirect discharge or discharge" means the introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act.

"Industrial user" or "~~user~~User" means a source of indirect discharge, a non-residential user that has the potential to discharge non-domestic wastewater to the POTW, or a commercial, industrial, or government entity that has a sewer connection for domestic wastewater discharge only.

"Industrial waste" means a solid, liquid or gaseous waste resulting from any industrial manufacturing, trade, or business process or from the development, recovery or processing of natural resources.

"Instantaneous maximum allowable discharge limit" means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

"Interference" means a discharge ~~that which~~, alone or in conjunction with a discharge or discharges from other sources, ~~does one of the following both:~~

- (a) Inhibits or disrupts the POTW, its treatment processes or operations, its sludge processes, ~~selected sludge use or disposal methods;~~ and
- (b) ~~Causes~~Therefore is a cause of violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation; ~~or of the prevention~~
- (c) ~~Prevents the use~~ of the POTW's sewage sludge use or its sludge disposal ~~method selected~~ in compliance with the following statutory provisions, ~~regulations, and regulations~~ or permits issued thereunder, ~~(or any more stringent state~~State or local regulations:); Section 405 of the Act; ~~(33 U.S.C. 1345), the Solid Waste Disposal Act, (SDWA)(42 U.S.C. 6901)(including Title II commonly, morecommonly referred to as the Resource Conservation and Recovery Act (RCRA); the rules), and including State regulations contained in any State~~ sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act;), the Clean Air Act;), the Toxic Substances Control Act;), and the Marine Protection, Research, and Sanctuaries Act.

"Local limit" means specific discharge limits developed and enforced by the ~~city~~City upon industrial ~~or commercial facilities~~users to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

"Medical waste" means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis waste.

"Monthly average" means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

"Monthly average limit" means the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

"New source" means:

- (a) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (1) The building, structure, facility, or installation is constructed at a site at which no other source is located;
  - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection (a)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this subsection has commenced if the owner or operator has:
  - (1) Begun, or caused to begin, as part of a continuous on-site construction program:
    - (A) Any placement, assembly, or installation of facilities or equipment, or
    - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment;
  - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

"Noncontact cooling water" means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

"NPDES" or "National Pollution Discharge Elimination System" means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into navigable waters, the contiguous zones, and the oceans pursuant to the Clean Water Act.

"Operation and maintenance" or "O&M" means the cost of operation and maintenance of the treatment works, including replacement costs. It means the expenses for the normal operation of the treatment works including overhead, meter reading, bill preparation, collection system costs, sewer equipment maintenance and treatment works equipment maintenance.

"Other wastes" means decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals and all other substances except sewage and industrial wastes.

"Pass through" means 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~~City's NPDES permit, including an increase in the magnitude or duration of a violation.

"Person" means any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

"pH" means a measure of the acidity or alkalinity of a solution, expressed in standard units.

"Pollutant" means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, heavy metals, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

"Pretreatment" means 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.

"Pretreatment program enforcement response plan" or "ERP" means a plan that contains detailed procedures indicating how the ~~city utilities~~City of Bloomington Utilities will investigate and respond to instances of ~~industrial user~~Industrial User noncompliance.

"Pretreatment requirements" means any substantive or procedural requirement related to pretreatment imposed on a ~~user~~User, other than a pretreatment standard.

"Pretreatment standards" or "standards" means prohibited discharge standards, categorical pretreatment standards, and local limits.

"Prohibited discharge standards" or "prohibited discharges" means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Chapter 10.12 of this title.

"Publicly owned treatment works" or "POTW" means a treatment works, as defined by Section 212 of the Act (33 USC 1292) which is owned by the ~~city~~City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

"Public sewer" means a primary or secondary sewer in which all owners of abutting property have equal rights and which is controlled by the utility.

"Replacement costs" means expenditures for obtaining and installing equipment, accessories, or appurtenances which are necessary to maintain the capacity and performance during the useful life of the wastewater treatment system.

"Representative sample" means a sample from a wastestream that is as nearly identical as possible in composition to that in the larger volume of wastewater being discharged and typical of the discharge from the facility on a normal operating day.

"Residential user" means any single-family or double-family dwelling which generates wastewater.

"Rules" means "Rules, Regulations and Standards of Service" adopted by the ~~utilities service board~~Utilities Service Board.

"Sanitary sewer" means a sewer which carries wastewater and to which all storm, surface and groundwaters and unpolluted industrial wastewater are not intentionally admitted.

"Septic tank waste" means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

"Sewage" means water-carried human wastes including human excrement and gray water (household showers, dishwashing operation, etc.), or a combination of water-carried wastes from residences, business buildings, institutions and industrial establishments, together with such ground, surface, storm or other waters as may be present.

"Sewer" means any pipe, conduit, ditch or other device used to collect and transport sewage or stormwater from the generating source.

"Shall" means mandatory.

"Significant industrial user" means:

- (a) A ~~user~~User subject to categorical ~~pretreatment standards~~Pretreatment Standards; or
- (b) A ~~user~~User that:
  - (1) Discharges an average of twenty-five thousand gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
  - (2) Contributes a process wastestream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (3) Is designated as such by the ~~director~~Director on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement;

~~(c)~~—Upon a finding that a ~~user~~User meeting the criteria in subsection (b) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the ~~city~~City may at any time, on its own initiative or in response to a petition received from a ~~user~~User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial ~~user~~User.

"Significant noncompliance" or "SNC" means an ~~industrial user's~~Industrial User's status for significant violations that have occurred or are occurring pursuant to 40 CFR 403.8(f)(2)(vii)(A-H) and as defined in Section 10.16. ~~459.090~~. Examples of SNC violations include major exceedances of effluent limits, failure to meet compliance schedule milestones by at least ninety days of the date specified in an enforcement document or permit, and failure to submit reports, such as ~~discharge monitoring reports~~Discharge Monitoring Reports, within forty-five days of the due date.

"Slug discharge" or "~~slug~~Slug" means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 10.12.010 and/or 10.12.020 of ~~this title~~this ordinance. A slug discharge is any discharge of a non-routine, episodic discharge, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through or in any other way violate the POTW's NPDES permit and regulations, as well as local limits, discharger permit conditions, or prohibited discharge standards listed in Chapter 10.12 of this ~~title~~ordinance.

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

"Stormwater" means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

"Stormwater utility, stormwater works, and stormwater facilities" means all constructed pipes, mains, facilities, structures and natural water courses under the control of the ~~utilities service board~~Utilities Service Board used for collecting and conducting stormwater through and from drainage area to the point of final outlet, including, but not limited to, any and all of the following: mains, pipes, lift stations, inlets, conduits and pertinent features, creeks, channels, catch basins, ditches, streams, culverts, retention or detention basins, and pumping stations; and excluding ~~there from~~therefrom any part of the system of drains and water courses under the jurisdiction of the ~~county~~Monroe County drainage board; provided, however, that the

~~utilities-service board~~Utilities Service Board and the ~~county~~Monroe County drainage board may negotiate cooperative arrangements regarding jurisdiction, design, construction, operation and maintenance of drains located outside of the municipal corporate boundaries under the authority of Indiana Code 36-9-27-1 et seq.

"Suspended solids" means 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.

"Toxic pollutant" means those substances listed in Section 307(a)(1) of the Act.

"Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical ~~pretreatment standards~~Pretreatment Standards due to factors beyond the reasonable control of the discharger. An operating upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

"User" or "~~industrial-user~~Industrial User" means a source of indirect discharge; any person or entity that discharges, causes or permits the discharge of wastewater into the wastewater treatment system.

"Utilities ~~director~~Director" or "~~director~~Director" means the person designated by the ~~city~~City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this title. The term also means a duly authorized representative of the ~~utilities-director~~Utilities Director.

"Utility" means the City of Bloomington Utilities comprised of water, wastewater and stormwater utilities.

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

"Wastewater treatment system" means any devices, facilities, structures, equipment or works owned by the city for the purpose of the transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, or necessary to recycle or reuse water at the most economical cost over the estimated life of the system, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including site acquisition of the land, that will be an integral part of the treatment process or is used for ultimate disposal of residues resulting from such treatment.

(Ord. 06-11 § 1, 2006).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, § 56, 7-2-2014)

#### **10.04.025 - Posting of rules.**

A copy of the ~~rules~~Rules shall be filed and posted in the commercial office of the utility and shall be available for public inspection during regular business hours.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

#### **10.04.030 - Wastewater main connections and construction.**

All construction of wastewater mains and their connection to the utility shall be made in accordance with section 23 of the ~~rules~~Rules.

(Ord. 06-11 § 2, 2006; Ord. 80-26 § 1 (part), 1980).

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(Ord. No. 12-28, § 1, 12-19-2012)

**10.04.040 - Extension of wastewater mains.**

The extension of wastewater mains and related facilities shall be made in accordance with sections 13 and 25 of the rulesRules.

(Ord. 06-11 § 3, 2006; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.04.050 - Mandatory connections.**

All wastewater sources located on property which is adjacent to an easement or public roadway in which a public sewer is located shall be connected to the public sewer; provided, that the public sewer has the capacity to adequately accept the flow. This connection shall take place within three years of the effective date of this chapter or three years from the construction of an adjacent public sewer.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.04.060 - Construction and abatement of defective privies or septic systems.**

It is unlawful for any person to permit continuance of any outside privy or septic system owned or controlled by him that person that is full, has reached its capacity, overflows, or is defective, so as to pollute the air or earth. No septic system or outside privy shall be installed or constructed where a sanitary sewer is adjacent or available to any property.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.04.070 - Personal sewer sludge use.**

Any person who takes sludge or has delivered to him or her in any form from any wastewater treatment plant serving the city does so at his or her own risk.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, § 57, 7-2-2014)

**10.04.080 - Admission to property.**

The cityCity may inspect any properties or any monitoring facilities of any userUser to determine the compliance with the requirements of this title. The userUser shall allow the cityCity or its representatives ready access at any time to all parts of the premises of the userUser for the purposes of inspection, sampling, copying or records examination or in the performance of any of their duties. The cityCity shall have the right to set up on the usersUser's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations at any time and without notice.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

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**10.04.090 - Illegal connections.**

In cases where connections are made to the wastewater treatment system which have not been approved by the ~~city utilities~~City of Bloomington Utilities engineer, service will be immediately discontinued and a charge to recover losses together with a service charge not to exceed six months estimated billing shall be imposed.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.04.095 - Tapping existing sewer mains.**

It shall be unlawful for anyone other than the ~~city utilities department~~City of Bloomington Utilities Department to make taps on existing sewer mains or manholes. The following rules shall apply:

- (a) The customer/contractor shall be responsible for all excavation necessary to perform the tap.
- (b) A minimum of forty-eight hours advance notice shall be required for the ~~utilities department~~City of Bloomington Utilities Department to schedule the necessary work.
- (c) The contractor shall be responsible for exposing the top of the existing sewer pipe in order to determine location of joint and/or existing lateral.
- (d) The center of the new tap shall be at least one foot from any joint or existing lateral.
- (e) The contractor shall clean all dirt and debris from the existing sewer main and excavate in a manner permitting installation of a chain completely around the pipe to restrain the tapping machine.
- (f) If the existing main appears to be cracked or broken, or if for any reason there appears to be some difficulty in making the tap, the contractor shall immediately call transmission and distribution at 339-1444, ext. 229, and report the location and problem.
- (g) For the tapping fee charged, the ~~utilities department~~City of Bloomington Utilities Department will make the tap, supply and install the fitting, and leave an open six-inch PVC SDR 35 gasket-joint bell. ~~The utilities department~~The City of Bloomington Utilities Department will not supply a plug or reducer, or make any connections for the customer/contractor.
- (h) All permits shall be furnished and paid for by the customer/contractor. This will include a street cut permit from either the city ~~planning and transportation department or the county engineering department or county engineering, and either an excavating or plumbing permit from city engineering. Permits will not be issued by city engineering unless a paid receipt for the tapping fee is presented.~~
- (i) If the ~~utilities department~~City of Bloomington Utilities Department finds it necessary to make extra trips to the job site because of problems created by the customer/contractor, there will be an additional charge of twenty-five dollars for each extra trip.
- (j) Tapping of manholes for lateral connection will no longer be permitted without permission of the ~~utilities~~City of Bloomington Utilities engineer or his representatives.

~~(k) —Violators may be fined one hundred dollars and the cost of correcting the illegal tap.~~

~~(Ord. 94-41 § 7, 1994; Ord. 87-48 § 1, 1987).~~

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, § 58, 7-2-2014)

**~~10.04.100 – Enforcement procedures – Right of Revision.~~**

~~(a) — In the event any person violates any provision of this title, except Chapter 10.17, or any order of the board, the director shall implement the city's "Pretreatment Program Enforcement Response Plan" or~~

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ERP which provides a range of enforcement responses available to the director. The enforcement responses are based on the type and circumstances of the violation. The range of enforcement responses include telephone notice, site visit, notice of violation, agreed order, compliance schedule, administrative fine, or legal action. The director shall choose the appropriate enforcement response.

- (b) ~~Any discharge of nonconventional or toxic pollutants which affects the operation of the wastewater treatment plant shall be considered a major violation of this title. In such case, the director may serve upon the person in violation a written notice stating the nature of the violation and providing a reasonable time, not to exceed thirty days, for correction of the violation. If the violation is not corrected in the time provided, the director may order the person to show cause before the board why service should not be terminated after the person has been properly served notice specifying the time and place of the hearing. The hearing shall follow the procedures set forth in section 22 of the rules and the violation of any order of the board shall be considered a public nuisance. In such cases, the city legal department shall begin an action for appropriate relief.~~
- (c) ~~When the director finds that any person has violated or is violating any other provision of this title, he or she may serve upon the person a written notice stating the nature of the violation and providing a reasonable time, not to exceed forty-five days, for correction of the violation. If the violation is not corrected in the time provided, the city legal department may begin an action for appropriate relief.~~
- (d) ~~When the director finds that an emergency exists that may result in serious harm to the wastewater treatment system or its users, the director may request the city legal department to obtain a temporary restraining order against the violator.~~

The City of Bloomington reserves the right to establish, by ordinance or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this ordinance.

(Ord. 06-11 § 4, 2006; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, §§ 59, 60, 7-2-2014)

#### 10.04.110 – Penalties.

- (a) ~~Any person who violates any provision of this title or any order of the board may be fined not less than one dollar nor more than two thousand five hundred dollars for each offense. Each day a violation continues shall constitute a separate offense. In addition, the city may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the person in violation.~~
- (b) ~~Administrative Fines. When the director finds that a user has violated, or continues to violate, any provision of this title, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the director may fine such user in an amount not to exceed two thousand five hundred dollars. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. In addition, the city may recover reasonable attorney's fees, court costs, and other expenses of litigation by appropriate suit at law against the person in violation.~~
- (1) ~~Unpaid charges, fines, and penalties shall, after forty five calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. A lien against the user's property may be sought for unpaid charges, fines, and penalties.~~
- (2) ~~Users desiring to dispute such fines must file a written request for the director to reconsider the fine along with full payment of the fine amount within thirty days of being notified of the fine. Where a request has merit, the director may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned~~

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to the user. The director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(e) ~~Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.~~

(Ord. 06-11 § 5, 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

#### **Chapter 10.08**

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### **WASTEWATER RATES AND CHARGES**

#### **Sections:**

**10.08.010 Rates—Generally.**

**10.08.020 Rates—Biennial review.**

**10.08.030 Rates—Based on quantity of water used.**

**10.08.035 Rate—Establishment of stormwater utility.**

**10.08.040 Rates—Metered water users.**

**10.08.045 Rates—Stormwater utility users.**

**10.08.050 Rates—Exemptions.**

**10.08.060 Rates—Utility measurement of water.**

**10.08.070 Rates—Nonmetered users.**

**10.08.080 Billing.**

**10.08.085 Lifeline service.**

**10.08.090 Delinquencies—Late payment charge.**

**10.08.100 Liens for nonpayment.**

**10.08.110 Special service rates.**

**10.08.120 Waste haulers—Charges.**

**10.08.130 Inspection charge.**

**10.08.140 Connection fee.**

**10.08.150 Laboratory charges.**

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#### **10.08.010 - Rates—Generally.**

Rates or charges shall be collected for the use of and the service rendered by the utility from the owners of each and every lot, parcel of real estate, or building that is connected with and uses the utility by or through any part of the wastewater treatment system, and the rates and charges shall be payable as provided in this chapter.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

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#### **10.08.020 - Rates—Biennial review.**

Not less than every two years, the ~~board~~**Board** shall review the wastewater contribution of users and user classes, the total cost of operation and maintenance of the treatment works, and its user charge

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system. The board shall, subject to enactment by the common council, revise the charges for users and user classes to maintain the proportionate distribution of operation and maintenance costs among the user and user classes and to generate sufficient revenue to pay the total operation and maintenance costs necessary for proper operation and maintenance of the treatment system, bond payments, and routine improvements.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.030 - Rates—Based on quantity of water used.**

- (a) The residential ~~user~~User rates and charges shall be based upon the quantity of water used on or in the property or premises subject to the rates and charges, as water is measured by the city water meter there in use, except as otherwise provided. Residential summer rates for the months of June, July, August, and September shall be based upon the average of April and May or actual usage, whichever is less. All other users shall be charged on the basis of one hundred percent of metered water consumption subject to user proof of lower wastewater use.
- (b) Industrial ~~user~~User rates and charges shall be based on the quantity of water used as well as any special service rates that may apply.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.035 - Rate—Establishment of stormwater utility.**

There is hereby established within the city wastewater utility the powers, duties and responsibility for the construction, operation and maintenance for the stormwater utility in accordance with Indiana Code 36-9-23-1 et seq. The original jurisdictional boundaries of the stormwater utility are reflected in Exhibit A, incorporated herein; said boundaries may be amended or extended with the approval of the ~~utilities service board~~Utilities Service Board.

(Ord. 98-29 § 2, 1998).

(Ord. No. 12-28, § 1, 12-19-2012)

**Editor's note**— Exhibit A, attached to Ord. No. 12-28, adopted Dec. 19, 2012, is not set out herein but is on file with the city.

**10.08.040 - Rates—Metered water users.**

General service rates shall be applicable to all metered water ~~users~~Users, except those with other than average strengths of BOD and suspended solids. The general service rates shall be determined as follows:

Monthly service charge (per meter)	\$7.95
User charge	
—Charge per 1,000 gallons per month for all billable usage:	
—Residential <sup>(a)</sup>	7.76
—Commercial	7.76

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— Indiana University	7.76
— Industrial <sup>(b)</sup>	7.76

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#### Notes:

(a) Residential summer rates for billings issued during the months of June, July, August, and September shall be based upon the average metered water consumption for billings issued during the months of April and May or actual usage, whichever is less. In order to more accurately reflect the actual wastewater usage of these customers, the utilities service board may, by the adoption of a resolution, change the months used to set the summer rates and the length of time the summer rates are in effect. All other users shall be charged on the basis of one hundred percent of metered water consumption subject to user proof of lower wastewater use.

(b) Industrial user rates and charges shall be based on the quantity of water used as well as any special service rates that may apply.

(Ord. 11-13 § 1, 2011; Ord. 05-34 § 1, 2005; Ord. 03-24 § 1, 2003; Ord. 00-34 § 1, 2000; Ord. 99-31 § 1, 1999; Ord. 98-29 § 3, 1998; Ord. 97-01 § 1, 1997; Ord. 94-41 § 1, 1994; Ord. 89-36 § 1, 1989; Ord. 81-16 § 1, 5, 1981; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 16-10, § 1, 6-15-2016)

#### **10.08.045 - Rates—Stormwater utility users.**

(a) The rates and charges of the stormwater utility shall be as follows:

The stormwater system user fee is applicable to all utility customers with accounts within the stormwater system service area. All customers classified by the utility as being single-family residential shall pay a monthly charge of two dollars and seventy cents. All other customers shall be charged based upon the amount of runoff generated by the customer. The amount of runoff subject to the stormwater utility rate shall be determined by a calculation based upon the following formula, minus any credits, as approved by the ~~utilities service board~~ Utilities Service Board:

Runoff generated by nonsingle-family residential customer	Runoff generated by the average single-family residential customer multiplied times \$2.70
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(b) These rates and charges shall be billed monthly, and all provisions of the Indiana Code, the Bloomington Municipal Code and the city utilities department "Rules, Regulations and Standards of Service" which apply to the payment and collection of rates and charges for wastewater services shall apply equally to the rates and charges for stormwater utilities services.

(Ord. 03-24 § 2, 2003; Ord. 01-15 § 1, 2001; Ord. 99-04 § 3, 1999; Ord. 98-29 § 4, 1998).

(Ord. No. 12-28, § 1, 12-19-2012)

#### **10.08.050 - Rates—Exemptions.**

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Water which is used in process of manufacture or for any other purpose which does not discharge into the sanitary sewers shall be exempted; provided, however that the property owner shall install, under the supervision of the utility, the necessary meters to indicate the amount of water used which does not discharge into the sanitary sewers. All meter installation and maintenance costs shall be paid by the ~~user~~User, including a monthly service charge as provided in Section 10.08.040.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.060 - Rates—Utility measurement of water.**

- (a) In the event a lot, parcel of real estate, or building discharging wastewater, water, or other liquids into the wastewater treatment system, either directly or indirectly, is not a ~~user~~User of water supplied by the utility and the water used is not measured by a utility water meter or by a meter acceptable to the utility, then the amount of water used shall be otherwise measured or determined by the utility in order to determine the rate or charge provided for in this chapter, or the ~~user~~User may at his expense install and maintain a meter acceptable to the utility for this purpose.
- (b) In the event a lot, parcel of real estate, or building discharges industrial wastewater either directly or indirectly into the wastewater treatment system and the utility finds it is not practical to attempt to measure such wastes by meter, it may be measured in such manner and by such methods as the utility may find practical in the light of the conditions and attendant circumstances in order to determine the rate or charge according to the corresponding rates per thousand gallons provided in this chapter. Higher than average wastewater strengths shall pay accordingly.

(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.070 - Rates—Nonmetered users.**

The minimum rate or charge for any service where the ~~user~~User is not a metered water ~~user~~User shall be seven hundred and seventy-three dollars and forty-seven cents per year, payable monthly. At the request of the utility or ~~user~~User, a meter which measures either the water use of the customer or the discharge into the sanitary sewer system shall be installed at the ~~user's~~User's expense. Where a meter has been installed or the customer's water use records are available at no charge from the water supplier, the charge for service shall be computed on the basis of water usage plus monthly service charge, just as it is with a metered ~~user~~User, subject to the annual minimum charge.

(Ord. 11-13 § 2, 2011; Ord. 05-34 § 2, 2005; Ord. 03-24 § 3, 2003; Ord. 00-34 § 2, 2000; Ord. 98-29 § 5, 1998; Ord. 94-41 § 2, 1994; Ord. 89-36 § 2, 1989; Ord. 81-16 § 2, 1981; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 16-10, § 2, 6-15-2016)

**10.08.080 - Billing.**

Rates and charges shall be billed monthly and shall be due according to the collection policy as adopted by the ~~utilities service board~~.Utilities Service Board.

(Ord. 94-41 § 3, 1994; Ord. 89-36 § 3, 1989; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

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**10.08.085 - Lifeline service.**

Beginning February 23, 1981, and ending February 23, 1982, those ~~users~~**Users** who are heads of households aged sixty-two or over who are dependent on Social Security or Social Security/SSI and whose total annual household income is at or below one hundred twenty-five percent of poverty level shall receive a credit on that portion of their monthly wastewater bill that is equivalent to the amount of the capital-related costs as established in Section 10.08.040.

(Ord. 81-16 § 7, 1981).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.090 - Delinquencies—Late payment charge.**

In the event a net bill is not paid within seventeen days from the mailing of the bill, it shall become a delinquent bill and a late payment charge may be added in the amount permitted by applicable state laws and regulations.

(Ord. 03-24 § 4, 2003; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.100 - Liens for nonpayment.**

- (a) In addition to any other method of collection of rates and charges, including the late payment charge, the utility may foreclose liens on property when rates and charges become delinquent. The utility may recover the amount due, the penalty, and reasonable attorney's fees in the manner provided by Indiana Code 36-9-23-31.
- (b) The utility shall have the right to foreclose the lien against rental property regardless of whether the delinquency in payment was created by the tenant or owner of the property.

(Ord. 89-14 § 4, 1989; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.110 - Special service rates.**

- (a) Special service rates shall be applicable to all industrial users who generate wastewater which contains any nonconventional pollutants or strengths of BOD or SS that exceed the system average strengths of three hundred parts per million BOD or three hundred parts per million SS, as determined by special laboratory analysis by the utility's central laboratory. Other special service rates shall be charged on a case-by-case basis for toxic pollutant discharges, with the charges being based on the difficulty of treating the toxic pollutant as well as sampling, testing, and disposal charges. Strength charges are to be computed on actual measured strengths and volumes.

- (b) Special service rates shall be determined as follows:

Monthly service charge (per meter)	\$ 7.95
Special laboratory analysis monthly charge	
Strength of BOD and SS sampling charge	166.90
Grease and oil sampling charge	156.45
Metal sampling charge (per metal per test)	34.77
User Charge	

Charge per 1,000 gallons per month for all billable usage:	
Non-excessive strength rate	7.76
Extra Strength Charge	
Charge per pound per month for all strength in excess of 300 ppm:	
BOD	0.380
Suspended Solids	0.310

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(Ord. 11-13 §3, 2011; Ord. 05-34 § 3, 2005; Ord. 03-24 § 5, 2003; Ord. 00-34 § 3, 2000; Ord. 99-31 § 2, 1999; Ord. 98-29 § 6, 1998; Ord. 97-01 § 2, 1997; Ord. 94-41 § 4, 1994; Ord. 89-36 § 4, 1989; Ord. 81-16 §§ 3, 6, 1981; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, § 61, 7-2-2014; Ord. No. 16-10, § 3, 6-15-2016)

#### **10.08.120 - Waste haulers—Charges.**

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(a) Waste shall only be accepted for treatment by the utility if the treatment processes and final effluent are not adversely affected. All haulers shall provide the utility with the names and addresses of the ~~users~~Users whose waste is brought for treatment. The ~~director~~Director shall designate the site where the waste will be accepted.

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(b) The following types of waste may be accepted for treatment by the city utilities:

- (1) Domestic Septage. Domestic septage refers to the waste contained in, or removed from, septic tanks or holding tanks which serve residential homes or other sources which generate only food-based waste. Each truckload delivered will be assumed to be a full load unless proven otherwise by the hauler.
- (2) Grease Waste. Grease waste is the waste contained in, or removed from, grease traps ~~and interceptors~~, or other similar devices which have been installed for the purpose of retaining the portion of the waste stream which floats on water. For the purpose of this ~~document title~~, grease waste refers to ~~greases~~grease of plant or animal origin. Petroleum based oils and ~~greases~~grease are specifically prohibited from being discharged into the wastewater system. Analysis of the grease wastes may be required before acceptance for treatment and disposal. The charge will be based on the calculated volume of the ~~pit trap~~ or ~~trap~~interceptor. There will be no additional charge for the water used to wash the grease from the ~~pit trap or interceptor~~.
- (3) Wastewater Treatment Plant Waste. Wastewater treatment plant waste includes the excess solids generated at municipal or semi-public wastewater treatment plants and/or the collection systems associated with those treatment plants. The waste may be in the form of sludge, mixed liquor, lagoon dredgings, or waste from lift stations, and must be compatible with the POTW's processes and capacities. Wastes which jeopardize compliance with the Part 503 rules concerning land application of sludge are prohibited. The board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full.
- (4) Commercial/Industrial Waste. Commercial/industrial waste includes wastes generated by industrial or commercial operations, or an operation which combines domestic waste with waste generated from industrial operations. This waste may be the product of some one-time operation, or may be accumulated in some form of holding tank, such as a septic tank. The wastes may be delivered to the system facilities only after the written request for such disposal has been



approved by the ~~director~~Director, or ~~his the Director's~~ designee, on a case-by-case basis. The ~~board~~Board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full.

- (5) Out-of-County Waste. For each of the above listed categories of waste, there shall be a surcharge of fifty percent added to the respective fees for any waste which originates at any source outside the boundaries of ~~the Monroe county~~County.

- (6) The charge for each delivery of the types of waste described above shall be:

	Portion of Rate Applicable to		
	Operations, Maintenance, and Replacement Expenses	Capital Related Costs	Total
Domestic Septage—			
First 500 gallons	\$ 7.52	\$ 2.78	\$10.30
Each additional 100 gallons	0.43	0.16	0.59
Grease Waste—			
First 100 gallons	4.30	1.59	5.89
Each additional 100 gallons	4.30	1.59	5.89
Wastewater Treatment Plant Waste—			
First 500 gallons	16.12	5.96	22.08
Each additional 100 gallons	3.23	1.19	4.42
Commercial/Industrial Waste—			
First 500 gallons	16.12	5.96	22.08
Each additional 100 gallons	3.23	1.19	4.42

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- (c) The fees for the treatment and disposal of domestic septage shall be charged to the waste hauler with a valid Wastewater Management Business Permit issued by the Indiana Department of Environmental Management who transports the waste to the treatment facility for disposal. ~~Any licensed~~Any City of Bloomington Utilities Department approved waste hauler may purchase tickets which authorize that hauler to dispose of one load of domestic septage.

Generators of nondomestic waste must request authorization to dispose of wastes in the utility treatment works. The application will be reviewed by staff and, if approved, the tickets for disposal of the waste may be purchased by the waste generator. Generators may purchase tickets in the manner outlined above. The generator must provide the appropriate ticket(s) to the waste hauler and the hauler must present the ticket(s) to the staff at the treatment facility as evidence that the disposal of the waste has been authorized.

Additional procedures that further promote an orderly system for the delivery, tracking and payment of these wastes may be adopted by the ~~board~~Board.

(Ord. 06-11 § 6, 2006; Ord. 00-34 § 4, 2000; Ord. 98-29 § 7, 1998; Ord. 97-01 § 3, 1997; Ord. 94-41 § 5, 1994; Ord. 89-36 § 5, 1989; Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.130 - Inspection charge.**

All construction inspections during normal business hours shall be free of charge. All inspections during overtime hours shall be at the rate of twelve dollars and fifty cents per hour.

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(Ord. 80-26 § 1 (part), 1980).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.08.135 - Service call charge.**

- (a) A service charge shall be collected for all service calls in excess of one free call per year, including, but not limited to, calls for sewer back-up and inspection for leaks, but such charge shall not be collected if the call was necessitated by an error of the ~~utility~~Utility.
- (b) The charge for all service calls during normal business hours shall be \$54.00 per call and \$180.00 per call during overtime hours.

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(Ord. No. 17-41, § 1, 11-15-2017)

**10.08.140 - Connection fee.**

The connection fee is applicable to all utility customers within the wastewater system service area. The following fees shall be charged for each new connection to the wastewater system based upon the customer's water meter size:

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Domestic Water Meter Size In Inches	Connection Fee
$\frac{3}{8}$ " or $\frac{1}{4}$ "	\$2,775.00
1"	\$7,104.00
1½"	\$15,984.00
2"	\$28,416.00
3"	\$63,936.00
4"	\$113,664.00
6"	\$255,744.00
8"	\$454,656.00
10"	\$710,400.00

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(Ord. 01-16 § 1, 2001; Ord. 97-01 § 4, 1997; Ord. 94-41 § 6, 1994).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 17-41, § 2, 11-15-2017)

**10.08.150 - Laboratory charges.**

The following charges shall apply for laboratory tests performed on samples delivered to the wastewater laboratory.

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Alkalinity	\$ 9.00
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Ammonia	13.00
BOD	16.00
Chlorine	8.00
COD	19.00
Cyanide	21.00
Floride	11.00
Hardness	9.00
Nitrates	16.00
Oil & grease	37.50
pH	3.00
Phosphates	17.00
Sulfates	16.00
Suspended solids	9.00
Dissolved solids	9.00
Total solids	12.00
Volatile solids	12.00
Total coliform	10.00
Fecal coliform	10.00
E. Coli	10.00
H. plate count	10.00
Cadmium	28.50
Chromium	28.50
Copper	28.50
Iron	28.50
Lead	28.50
Manganese	28.50
Nickel	28.50
Silver	28.50
Zinc	28.50

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;hn0; (Ord. 97-01 § 5, 1997).

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(Ord. No. 12-28, § 1, 12-19-2012)

## Chapter 10.12-

### ~~PROHIBITED WASTEWATER DISCHARGES DISHCARGES~~

#### GENERAL SEWER USE REQUIREMENTS

##### Sections:

10.12.010 General prohibitions.

10.12.020 Specific prohibitions.

10.12.025 Affirmative defenses.

10.12.030 Emergency condition notification.

10.12.040 Limitations on wastewater strength.

10.12.050 Special agreements.

10.12.060 Hauled waste.

##### 10.12.010 - General prohibitions.

- (a) General Prohibitions. No ~~user~~User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.
- (b) Director's Authority. The ~~director~~Director may reject any discharge to the POTW, in whole or part, that ~~he or she~~the Director determines to have the potential to either adversely affect POTW operation or cause or contribute to a violation of the ~~city's~~City's NPDES permit.

(Ord. 06-11 § 7, 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

##### 10.12.020 - Specific prohibitions.

- (a) No ~~user~~User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty degrees Fahrenheit (sixty degrees Celsius) using the test methods specified in 40 CFR 261.21;
  - (2) Wastewater having a pH less than five (~~5.0~~) or more than ten ~~standard units~~(10.0) Standard Units or otherwise causing corrosive structural damage to the POTW or equipment;
  - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference (but in no case solids greater than one-half inch in any dimension);
  - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
  - (5) Wastewater having a temperature greater than one hundred forty degrees Fahrenheit (sixty degrees Celsius), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed one hundred four degrees Fahrenheit (forty degrees Celsius);

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- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
  - (8) Trucked or hauled pollutants, except at discharge points designated by the ~~director~~Director in accordance with Chapter 10.08 of this title;
  - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
  - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the ~~city's~~City's NPDES permit;
  - (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
  - (12) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the ~~director~~Director;
  - (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
  - (14) Medical wastes, except as specifically authorized by the ~~director~~Director in a wastewater discharge permit;
  - (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
  - (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW; or
  - (17) Fats, oils, or ~~greases~~grease of animal or vegetable origin in concentrations greater than one hundred fifty milligram per liter.
  - (18) Any material which may be classified as hazardous waste in accordance with 40 CFR 261.
- (b) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the discharger's cost and expense.

(Ord. 06-11 § 8, 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

#### **10.12.025 Affirmative Defenses.**

- (a) It shall be an affirmative defense in any action brought by the City against any User alleging a violation of the general prohibitions established in 10.12.010 and the specific prohibitions in 10.12.020 where the User can demonstrate that:
- (1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass Through or Interference;  
and

(2) Either:

(A) A local limit designed to prevent Pass Through and/or Interference, as the case may be, was developed in accordance with 40 CFR 403.5(c) for each pollutant in the User's discharge that caused Pass Through or Interference, and the User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or  
(B) If a local limit designed to prevent Pass Through and/or Interference, as the case may be, has not been developed in accordance with 40 CFR 403.5(c) for the pollutant(s) that caused the Pass Through or Interference, the User's discharge direction prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's prior discharge activity when the City was regularly in compliance with the City's NPDES permit requirements and, in the case of Interference, applicable requirements for sewage sludge use or disposal.

#### 10.12.030 - Emergency condition notification

- (a) An emergency condition is the occurrence of an upset, bypass, or a slug discharge or accidental discharge of substances prohibited by this title or substances regulated by 40 CFR Part 403.5. In the event of an emergency condition, the discharger must provide the following information to the ~~utilities service board~~ Director within one hour of discovery:
- (1) A description of the emergency condition, including the location, type of waste, concentration and volume; and cause of the emergency condition;
  - (2) The period of noncompliance, including exact dates and times or, if not yet corrected, the anticipated time the period of noncompliance is expected to continue;
  - (3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the emergency condition.
- (b) Any discharger who discharges a slug load of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the ~~city~~City on account thereof under state or federal law.
- (c) Within five days following such discharge, the discharger shall, unless waived by the ~~director~~Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the ~~user~~User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the ~~user~~User of any fines, penalties, or other liability which may be imposed pursuant to this title.
- (d) The discharger's notification of emergency conditions to the ~~city~~City in accordance with this section does not relieve it of any other reporting requirements that arise under local, state, or federal laws.

(Ord. No. 12-28, § 1, 12-19-2012)

#### 10.12.040 - Limitations on wastewater strength.

- (a) National Categorical Pretreatment Standards. The National Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, ~~Parts 400-471~~ (including the categorical standards) are incorporated. All Users must comply with the National Categorical Pretreatment Standards.
- (1) Where a categorical ~~pretreatment standard~~Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the ~~director~~Director may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6~~(e)~~, and the following requirements:
- ~~(2) When (a) To be eligible for mass limits, the Industrial User must:~~

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- i. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater ~~subject to a discharge permit~~;
- ii. Currently use control and treatment technologies adequate to achieve compliance with the applicable ~~categorical pretreatment standard~~ Pretreatment Standard, and not have used dilution as a substitute for treatment;
- iii. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
- iv. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge, and;
- v. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(b) An Industrial User subject to equivalent mass limits must:

- i. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
- ii. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
- iii. Continue to record the facility's production rates and notify the Director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in BMC § 10.12.040(a)(iii). Upon notification of a revised production rate, the Director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
- iv. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to BMC § 10.12.040(a)(i).

(c) When developing equivalent mass limits, the Director:

- i. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
- ii. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to BMC § 10.12.040(a)(7). The Industrial User must also be in compliance with BMC § 10.16.130.

- (2) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director may convert the limits to equivalent limitations

expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

(3) The Director may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Director.

(4) When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the ~~director~~Director shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(3)—(5) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4)(6) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both average and the maximum equivalent limitation.

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

(5)(8) Reporting of Changes in Production. Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the control authority within two business days after the user has a reasonable basis to know that the production level will increase or decrease by twenty percent or greater within the next calendar month.

(6)—Net/Gross Adjustment. A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following paragraphs of this section.

(b)—(9) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Director within two business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate.

(10) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.

(b) Net/Gross Adjustment. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the ~~industrial-user's~~Industrial User's intake water in accordance with this ~~section~~Section. Any ~~industrial-user~~Industrial User wishing to obtain credit for intake pollutants must make application to the ~~director~~Director. Upon request of the ~~industrial-user~~Industrial User, the applicable ~~standard~~Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2c) of this section are met.

(c) The criteria for determining whether a credit will be granted shall include:

(1) Either (i) The applicable categorical pretreatment standards contained in 40 CFR Subchapter N specifically provide that they shall be applied on a net basis; or (ii) The ~~industrial-user~~Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical



pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

- (2) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the ~~industrial-user~~Industrial User demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- (3) Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standard(s) adjusted under this section.
- (4) Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The ~~director~~Director may waive this requirement if it finds that no environmental degradation will result.
- (d) Local Limits. ~~The director is authorized to develop and enforce specific local limits pursuant to 40 CFR 403.5(c) and (d). These local limits shall be deemed pretreatment standards for the purpose of Section 307(d) of the Act. The following pollutant limits are established to protect against pass through and interference. No user shall discharge wastewater containing in excess of the following daily maximum allowable discharge.~~No Significant Industrial User or other authorized Industrial User shall discharge wastewater that exceeds the following limits:

<del>Parameter-Pollutant</del> <sup>(a)</sup>	<u>Daily Maximum Discharge Limit</u> (mg/ <del>l</del> -L)
Arsenic	0.14-24
Cadmium	0.11-071
Chromium	1.53-43
Copper	2.07-0.846
Cyanide	0.24
Lead	0.20-24
Mercury	0.00014-009
Molybdenum	0.17
Nickel	2.14-1.91
Oil and grease	150
PCBs	0.0001
Phosphorus	17

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Selenium	0.14-22
Silver	0.55-34
Zinc	1.00-34

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The director:

- (a) All Pollutants as Total and in mg/L unless otherwise specified.
- (1) The Director may, at his or her sole discretion, implement local limits through allocation of the Maximum Allowable Industrial Load (MAIL) to Significant Industrial Users which correspond to the uniform concentration local limits shown in the table above. The MAILs that correspond to the Daily Maximum Discharge Limits are hereby incorporated by reference.
  - (2) The following limits shall apply to wastewaters that are discharged from the groundwater cleanup of petroleum or gasoline underground storage tanks or other remediation wastewaters containing these pollutants or where these pollutants are appropriate surrogates. It shall be unlawful for any permitted Industrial User to discharge or cause to be discharged any waste or wastewater that exceeds the following limits, as applicable:

Pollutant <sup>(c)</sup>	Daily Maximum Limit (mg/L)
Benzene <sup>(a)</sup>	0.050
BTEX <sup>(b)</sup>	0.750

- (a) All pollutants shown in the Table are total.  
(b) BTEX shall be measured as the sum of Benzene, Ethylbenzene, Toluene and Xylenes.  
(c) These limits are based upon installation of air stripping technology as described in the EPA document: "Model NPDES Permit for Discharges Resulting from the Cleanup of Gasoline Released from Underground Storage Tanks, June 1989."

- (3) The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above. The director may develop best management practices (BMPs), by ordinance or in wastewater discharge permits, to implement local limits and the requirements of Title 10.
- (4) The Director may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits, to implement Local Limits and the requirements of Title 10.

(Ord. No. 12-28, § 1, 12-19-2012)

#### 10.12.050 - Special agreements.

Nothing in this title shall be construed as preventing any special agreement or arrangement between the utility and any user of the wastewater treatment system in which wastewater of unusual strength or character is accepted into the system and specially treated, but such agreement shall be subject to any charges that may be applicable.

(Ord. 85-48 § 2 (part), 1985).

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(Ord. No. 12-28, § 1, 12-19-2012)

**10.12.060 - Hauled waste.**

- (a) Waste shall only be accepted for treatment by the utility if the treatment processes and final effluent are not adversely affected. All haulers shall provide the utility with the names ~~and~~, addresses, ~~and~~ telephone numbers of the ~~users~~Users whose waste is brought for treatment. The ~~director~~Director shall designate the site where the waste will be accepted.
- (b) The following types of waste may be accepted for treatment by the city utilities:
- (1) Domestic Septage. Domestic septage refers to the waste contained in, or removed from, septic tanks or holding tanks which serve residential homes or other sources which generate only residential food-based waste. Each truckload delivered will be assumed to be a full load unless proven otherwise by the hauler;
  - (2) Grease Waste. Grease waste is the waste contained in, or removed from, grease traps ~~and interceptors~~, or other similar devices, which have been installed for the purpose of retaining the portion of the wastestream which floats on water. For the purpose of this document, grease waste refers to greases of plant or animal origin. Petroleum based oils and ~~greases~~grease are specifically prohibited from being discharged into the wastewater system. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the director, or his designee, on a case-by-case basis. Analysis of the grease wastes may be required before acceptance for treatment and disposal. The charge will be based on the calculated volume of the ~~pit~~trap or ~~trap~~interceptor. There will be no additional charge for the water used to wash the grease from the ~~pit~~trap or ~~interceptor~~;
  - (3) Wastewater Treatment Plant Waste. Wastewater treatment plant waste includes the excess solids generated at municipal or semi-public wastewater treatment plants and/or the collection systems associated with those treatment plants. The waste may be in the form of sludge, mixed liquor, lagoon dredgings, or waste from lift stations, and must be compatible with the treatment system's processes and capacities. Wastes which jeopardize compliance with the 40 CFR Part 503 rules concerning land application of sludge are prohibited. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the ~~director~~Director, or ~~his~~the Director's designee, on a case-by-case basis. The ~~board~~Board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full;
  - (4) Commercial/Industrial Waste. Commercial/industrial waste includes wastes generated by industrial or commercial operations, or an operation which combines domestic waste with waste generated from industrial operations. This waste may be the product of some one-time operation, or may be accumulated in some form of holding tank, such as a septic tank. The wastes may be delivered to the system facilities only after the written request for such disposal has been approved by the ~~director~~Director, or ~~his~~the Director's designee, on a case-by-case basis. The ~~board~~Board shall establish parameters for the testing of these wastes. The waste hauler will be responsible for the cost of any testing required. Trucks delivering these wastes will be assumed to be full;
  - (5) Out-of-County Waste. For each of the above listed categories of waste, there shall be a surcharge of fifty percent added to the respective fees for any waste which originates at any source outside the boundaries of ~~the~~Monroe county.
- (c) Hauled waste may be introduced into the POTW only at locations designated by the ~~director~~Director, and at such times as are established by the director. The ~~director~~Director may require the hauler to provide a waste analysis of any load prior to discharge or the director may collect samples of each hauled load to ensure compliance with this title. Waste haulers shall be required by the ~~director~~Director to provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, names ~~and~~, addresses, ~~and~~ telephone numbers of sources of waste, and volume and ~~characteristics~~category of waste. The ~~director~~Director may establish operating rules, in addition to those rules listed in this section.

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(Ord. 06-11 § 10, 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

**Chapter 10.16-**

**INDUSTRIAL WASTEWATER DISCHARGERS**

**Sections:**

<u>10.16.005</u>	<u>Legal authority.</u>	
<u>10.16.010</u>	<u>Wastewater dischargers.</u>	
<u>10.16.015</u>	<u>Compliance schedules.</u>	
<u>10.16.020</u>	<u>Wastewater discharge permits.</u>	
<u>10.16.030</u>	<u>Reporting requirements for permittee.</u>	
<u>10.16.035</u>	<u>Wastewater sample collection.</u>	
<u>10.16.040</u>	<u>Monitoring facilities.</u>	
<u>10.16.050</u>	<u>Right of entry: inspection and sampling.</u>	
<u>10.16.060</u>	<u>Monitoring waivers.</u>	
<u>10.16.070</u>	<u>False statements.</u>	
<u>10.16.080</u>	<u>Confidential information.</u>	
<u>10.16.090</u>	<u>Annual Publication. Emergency Suspension of service and discharge permits.</u>	
<u>10.16.090</u>	<u>Emergency suspension of service and discharge permits.</u>	)
<u>10.16.095</u>	<u>Termination of discharge.</u>	)
<u>10.16.100</u>	<u>Revocation of permit.</u>	)
<u>10.16.110</u>	<u>Notification of violation — Administrative adjustment.</u>	) Moved to new
<u>10.16.120</u>	<u>Financial responsibility.</u>	) Chapter
<u>10.16.130</u>	<u>Show cause hearing.</u>	) 10.30
<u>10.16.140</u>	<u>Judicial proceedings.</u>	) Enforcement
<u>10.16.150</u>	<u>Enforcement actions — Annual publication.</u>	)
<u>10.16.160</u>	<u>Right of appeal.</u>	)
<u>10.16.100</u>	<u>Permit appeals.</u>	
<u>10.16.110</u>	<u>Upsets.</u>	
<u>10.16.120</u>	<u>Pass through and interference.</u>	
<u>10.16.130</u>	<u>Bypass.</u>	
<u>10.16.140</u>	<u>Records retention.</u>	
<u>10.16.150</u>	<u>Fees.</u>	
<u>10.16.160</u>	<u>Regulation of wastes from other jurisdictions.</u>	

**10.16.005 - Legal authority.**

The pretreatment program was developed as required by 40 CFR 403.8(a). The ~~director~~Director has the legal authority to:

- Deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by ~~industrial users~~Industrial Users where such contributions do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit;
- Require compliance with applicable pretreatment standards and requirements by ~~industrial users~~Industrial Users;

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- (c) Control through permit, order, or similar means, the contribution to the POTW by each ~~industrial user~~Industrial User to ensure compliance with applicable ~~pretreatment standards~~Pretreatment Standards and ~~requirements~~Requirements. In the case of ~~industrial users~~Industrial Users identified as significant under [40 CFR] 403.3(v), this control shall be achieved through individual permits.

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.010 - Wastewater dischargers.**

It shall be unlawful for an ~~industrial user~~Industrial User to discharge sewage, industrial wastes or other wastes to any sewer within the jurisdiction of the ~~city~~City, and/or to the POTW without a permit issued by the ~~city or approval from City~~. The City may require non-permitted Industrial Users to comply with reporting requirements set forth in 10.16.030 at the ~~director's discretion of the Director~~.

(Ord. 85-48 § 3 (part), 1985).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.015 - Compliance schedules.**

The requirements of this section shall apply to both permitted and ~~unpermitted~~non-permitted discharges.

- (a) Where additional pretreatment, installation of technology, and/or operation and maintenance activities will be required to comply with this title, the industrial discharger shall provide a declaration of the shortest compliance schedule by which the industrial discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities.
- (b) The compliance schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the industrial discharger to comply with the requirements of this title including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, installation of technology required to meet applicable ~~pretreatment standards~~Pretreatment Standards and ~~requirements~~Requirements, and all other acts necessary to achieve compliance with this title.
- (c) Under no circumstances shall the ~~city~~City permit a time increment for any single step directed toward compliance which exceeds nine months.
- (d) Not later than fourteen days following each milestone date in the schedule and the final date for compliance, the industrial discharger shall submit a progress report to the city, including no less than a statement as to whether or not it complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the industrial discharger to return the construction to the approved schedule. In no event shall more than nine months elapse between such progress reports to the ~~city~~City.

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.020 - Wastewater discharge permits.**

~~(a) —Wastewater Analysis. When requested by the director, a user must submit information on the nature and characteristics of its wastewater within sixty days of the request. The director is authorized to prepare a form for this purpose and may periodically require users to update this information. No Significant Industrial User~~

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~~(b) — Permits. No significant industrial user~~ shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the ~~director~~Director. The ~~director~~Director may require other ~~users~~Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this title. All existing industrial dischargers connected to or discharging to the POTW shall obtain a wastewater discharge permit within ninety days after the effective date of the ordinance codified in this title. Any violation of the terms and conditions of an industrial wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to sanctions set out in this title.

~~(c) — Permit Conditions. Wastewater discharge permits shall specify no less than the following:~~

- ~~(1) — Fees and charges to be paid upon initial permit issuance;~~
- ~~(2) — Effluent limits, best management practices, categorical pretreatment standards, local limits, state and local laws, and effluent limits on the average and maximum wastewater constituents and characteristics regulated thereby;~~
- ~~(3) — Effluent limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;~~
- ~~(4) — Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;~~
- ~~(5) — Special conditions as the city may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;~~
- ~~(6) — Any grant of a monitoring waiver by the director (Section 10.16.060) must be included as a condition in the user's permit;~~
- ~~(7) — Compliance schedules;~~
- ~~(8) — Requirements for submission of special technical reports or discharge reports where same differ from those prescribed by this title.~~

~~(9) — A slug control plan as required by Section 10.16.030(f) of this chapter) \_\_\_\_\_.~~

~~(d) — Permit Duration. A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years at the discretion of the director. Each wastewater discharge permit will indicate a specific date upon which it will expire. The permittee must reapply for a discharge permit under subsection (f) of this section, a minimum of four (4) months prior to the expiration date of the permit.~~

~~(e) — Limitations on Permit Transfer. Wastewater discharge permits are issued to a specific industrial discharger for a specific operation and are not assignable to another industrial discharger without the prior written approval of the city, or transferable to any other location.~~

~~(f) — Permit Application. Industrial dischargers shall complete and file with the cityCity, a permit application ~~therefore~~ in the form prescribed by the cityCity, and accompanied by the appropriate fee. Existing industrial dischargers shall apply for a wastewater discharge permit within thirty days after the effective date of the ordinance codified in this chapter, and proposed new industrial dischargers shall apply at least ninety days prior to connecting to the POTW. No discharge permit shall be issued unless and until the following conditions have been met:~~

- ~~(1) \_\_\_\_\_~~ ~~(1) —~~Disclosure of name, address, and location of the discharger;
- ~~(2) \_\_\_\_\_~~ ~~(2) —~~Disclosure of standard industrial classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- ~~(3) \_\_\_\_\_~~ ~~(3) —~~Disclosure of wastewater constituents and characteristics, including, but not limited to, those mentioned in this title, including Section 307 of the Act as appropriate, as determined by bona fide chemical and biological analyses. Sampling and analysis shall be

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performed in accordance with procedures established by the U.S. EPA and contained in 40 CFR, Part 136, and 40 CFR 403.12 as amended;

- (4) ~~(4)~~—Disclosure of time and duration of discharges;
- (5) ~~(5)~~—Disclosure of average daily and instantaneous peak wastewater flow rates, in gallons per day, including daily, monthly and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the ~~city~~City due to cost or nonfeasibility;
- (6) ~~(6)~~—Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;
- (7) ~~(7)~~—Description of activities, facilities and plant processes on the premises including all materials which are or may be discharged to the sewers or works of the ~~city~~City;
- (8) ~~(8)~~—Disclosure of the nature and concentration of any pollutants or materials prohibited by this title in the discharge, together with a statement regarding whether or not compliance is being achieved with this title on a consistent basis and if not, whether additional operation and maintenance activities and/or additional pretreatment is required for the industrial discharger to comply with this title;
- (9) ~~(9)~~—Where additional pretreatment and/or operation and maintenance activities will be required to comply with this title, the industrial discharger shall provide a declaration of the shortest compliance schedule by which the industrial discharger will provide such additional pretreatment and/or implementation of additional operational and maintenance activities~~;~~;
- (10) ~~(10)~~—Users shall provide wastewater treatment as necessary to comply with this title and shall achieve compliance with all categorical ~~pretreatment standards~~Pretreatment Standards, permit limits, local limits, and the prohibitions set out in Chapter 10.12 of this title within the time limitations specified by EPA, the state, or the ~~director~~Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the ~~user's~~User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the ~~director~~Director for review, and shall be acceptable to the ~~director~~Director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the ~~user~~User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the ~~city~~City under the provisions of this title;
- (11) ~~(11)~~—Disclosure of each product produced by type, amount, process or processes and rate of production~~;~~;
- (12) ~~(12)~~—Disclosure of the type and the amount of raw materials utilized (average and maximum per day);
- (13) ~~(13)~~—All permit applications for new or modified permits shall be signed by an authorized representative of the ~~user~~User;
- (14) ~~(14)~~—All sewers shall have an inspection and sampling manhole or structure with an opening of no less than twenty-four inches diameter and an internal diameter of no less than thirty-six inches containing flow measuring, recording and sampling equipment as required by the ~~city~~City to assure compliance with this title. The ~~city~~City will evaluate the complete application and data furnished by the industrial discharger and may require additional information. Within thirty days after full evaluation and acceptance of the data

furnished, the ~~city~~City shall issue a wastewater discharge permit subject to terms and conditions provided herein.

(15) Develop, submit to the City for approval, and implement a Slug Control Plan pursuant to section 10.16.030(g).

(b) (g) — Permit Modifications. ~~Permit Terms and Conditions.~~ The city reserves the right to amend any terms and conditions of each wastewater discharge permit shall include, but not be limited to, the following:

- (1) Fees and charges to be paid upon initial permit issuance;
- (2) Effluent limits, Best Management Practices, Categorical Pretreatment Standards, local limits, State and local laws, and effluent limits on the average and maximum wastewater constituents and characteristics regulated thereby;
- (3) Effluent limits on average and maximum rate and time of discharge and/or requirements for flow regulations and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (5) Special conditions as the City may reasonably require under particular circumstances of a given discharge including sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
- (6) Any grant of a monitoring waiver by the Director (Section 10.16.060) must be included as a condition in the User's permit;
- (7) Compliance schedules and progress reports as required by Chapter 10.16.015 of this title;
- (8) Requirements for submission of special technical reports or discharge reports where same differ from those prescribed by this title;
- (9) A Slug Control Plan as required by Chapter 10.16.030(g) of this Title;
- (10) A statement of duration (effective date and termination date);
- (11) A statement of non-transferability;
- (12) Requirements for Self-monitoring, sampling, reporting, notification, and recordkeeping. These requirements shall include an identification of pollutants or best management practices to be monitored, sampling location, sampling frequency, and sample type based on Federal, state, and local law;
- (13) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge;
- (14) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(c) Permit Effective Date. The Effective date of the wastewater discharge permit is the date in which the Utilities Service Board approves and signs the permit.

(d) Permit Duration. No wastewater discharge permit shall exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire, issued hereunder

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(e) Permit Renewal. Wastewater discharge permits are renewable. To renew a wastewater discharge permit the permittee must apply for renewal no later than four (4) months prior to the expiration date of the permit. Otherwise the permittee must apply for a new permit.

(f) Permit Transfer and Assignment. Wastewater discharge permits are issued to a specific User at a specific location for a specific operation, and are not assignable to any other User and are not transferrable to any other location without prior written authorization from the Director.

(g) Permit Modifications.

(1) The City may modify any wastewater discharge permit in order to assureensure the City's compliance by the city with applicable laws and regulations. Within

(2) Changes in National Categorical Pretreatment Standard.

(a) No later than 180 days after the promulgation of any applicable National Categorical Pretreatment Standard, all industrial dischargers shall submit to the City the information required by subsections (a)(8) and (a)(9) of this section.

(b) No later than nine months ofafter the promulgation of a national categorical pretreatment standardNational Categorical Pretreatment Standard, the wastewater discharge permit of each industrial discharger subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by modified to to reflect such standards.

(3) All national categorical pretreatment standards adopted after the promulgation of this title shall be adopted by the city as part of this title. Where an industrial discharger, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by subsection (e) of this section, the industrial discharger shall apply for a wastewater discharge permit from the city within one hundred eighty days after the promulgation of the applicable national categorical pretreatment standard by the U.S. EPA. In addition, the industrial discharger with an existing wastewater discharge permit shall submit to the city within one hundred eighty days after the promulgation of an applicable national categorical pretreatment standard, the information required by subsections (e)(8) and (9) of this section. The industrial dischargerdischargers shall be informed of any proposed changesmodifications in histheir permit at least sixty days prior to the effective date of change modification.

(4) Any changes or new conditions in themodification to a permit shall include a reasonable time schedule for compliance. Any significant changes in the industrial discharger's wastewater constituents or characteristics shall be reported to the city at least thirty days prior to initiation of any proposed in-plant modification causing the change. Any permit modification due to the proposed change must be completed prior to the changein which the industrial discharger shall comply.

.(Ord. 06-11 § 11, 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.030 - Reporting requirements for permittee.**

(a) Compliance Date Report. Within(a) Date of Submittal. All mailed reports are deemed submitted on the date postmarked. All hand delivered reports are deemed submitted on the date of receipt stamped by the City on the report.

(b) Report on Compliance With Categorical Pretreatment Standard Deadline- Compliance Date Reports. All industrial dischargers subject to this title shall submit to the City a Compliance Date Report

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indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons.

(1) The Compliance Date Report shall be submitted to the City no later than ninety days following the date for final compliance by the industrial discharger with applicable pretreatment standard set forth in this title or ninety days following commencement of the introduction of wastewater into the POTW by a new discharger, ~~any industrial discharger subject to this title shall submit to the city a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable pretreatment standard or requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the industrial discharger into compliance with the applicable pretreatment standards or requirements. This statement shall be signed by an authorized representative of the industrial discharger, and certified to by a qualified engineer.~~

(2) (b) The Compliance Date Report shall include the following information:

(a) The information described in Chapter 10.16.030(f)(4)(e-g) of this Title.

(b) Sampling performed in accordance with procedures set out in Chapter 10.16.035 of this title.

(c) For Industrial Users subject to subject to equivalent mass or concentration limits established by the CBU in accordance with the procedures set forth in Chapter 10.12.040(a) of this Title, this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial 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.

(c) Periodic Compliance Schedule Reports.

(1) AnyA Periodic Compliance Schedule Report shall be submitted to the City by the following Users:

(a) All industrial dischargerdischargers subject to a categorical pretreatment standardPretreatment Standard set forth in this title, afterand

(b) Any permitted Industrial User not subject to a categorical Pretreatment Standard set forth in this title.

(2) Unless required more frequently by the City, the Periodic Compliance Schedule Report is due in January and July of each year following establishment of the compliance date of suchfor pretreatment standardstandards, or, in the case of a new industrial discharger, after commencement of the discharge to the city, shall submit to the city during the months of January and July, unless required more frequently by the city, a report indicating the nature and concentration, of prohibited or regulated substances in the effluent which are limited by the categorical pretreatment standards hereof. These reporting requirements also apply to any permitted significant industrial user not subject to a categorical pretreatment standard set forth in this title. In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period reported in subsection (a) of this section. Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the city may accept reports of average and maximum flows estimated by verifiable techniques.

In cases where the pretreatment standard requires compliance with a best management practice (or pollution prevention alternative), the user shall submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the user.

City. The cityCity, for good cause shown, considering such factors as local-high or low flow rates, holidays, budget cycles, or other extenuating factors may authorize the submission of said reports on months other than those specified above.

~~(3) (2) Any industrial user and POTW subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including chain of custody forms and documentation associated with best management practices. Such records shall include for all samples: The Periodic Compliance Schedule Report shall include the following:~~

- ~~(a) The nature and concentration of prohibited or regulated substances in the effluent which are limited by any Pretreatment Standards;~~
- ~~(b) A record of all measured or estimated average and maximum daily flows during the reporting period. Flows shall be reported on the basis of actual measurement; provided, however, where cost or feasibility considerations justify, the City may accept reports of average and maximum flows estimated by verifiable techniques;~~
- ~~(c) In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User;~~

~~All~~

- ~~(i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;~~
- ~~(ii) The dates analyses were performed;~~
- ~~(iii) Who performed the analyses;~~
- ~~(iv) The analytical techniques/methods used; and~~
- ~~(v) The results of such analyses.~~

~~These records shall remain available for a period of at least three years.~~

- ~~(d) Reports of permittees shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where required by the city. The frequency of monitoring by the industrial discharger shall be as prescribed in the applicable pretreatment standard of this title. Permitted industrial users must submit to the director all City.~~
- ~~(e) All analytical data generated by the analytical methods listed in their industrial waste pretreatment permit. This includes any analytical data generated, and associated chain-of-custody forms, in addition to the sampling frequency listed in the industrial pretreatment permit. All analyses shall be performed in accordance with 40 CFR, Part 136 and 40 CFR 403.12 and amendments, thereto.~~
- ~~(f) Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April, 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the administrator/Administrator of the U.S. EPA.~~

~~(3)~~

#### (4) Record Retention and Maintenance.

Any industrial user and POTW subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this

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section, including chain-of-custody forms and documentation associated with Best Management Practices.

(a) These records shall include for all samples:

- (i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods used; and
- (v) The results of such analyses.

(b) These records shall remain available for a period of at least three years.

(5) Permittees who implement and adhere to best management practices as required by a categorical pretreatment standard must submit documentation of compliance with such requirements.

(ed) Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the ~~user~~User must notify the ~~director~~Director within twenty-four hours of becoming aware of the violation. The ~~user~~User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the ~~director~~Director within thirty days after becoming aware of the violation.

(de) Application Signatories and Certification.

(1) All wastewater discharge permit applications and ~~user~~User reports must be signed by an authorized representative of the user and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(2) ~~(e)~~ All requests for monitoring waivers must be signed by an Authorized Representative of the User and contain the following certification statement:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Chapter 10.16.030(c)."

(3) If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director prior to or together with any reports to be signed by an Authorized Representative.

(f) Baseline Monitoring Reports.

(1) ~~Within~~ The following shall submit Baseline Monitoring Reports:

(a) Existing CIUs currently discharging to or scheduled to discharge to the POTW;

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(b) New Sources (including all sources that become CIUs subsequent to the promulgation of an applicable categorical standard).

(2) Existing CIUs discharging or scheduled to discharge to the POTW shall submit their Baseline Monitoring Report to the Director either within one hundred eighty days after the effective date of a categorical pretreatment standard Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later; existing.

(3) New Sources (including any Sources that become CIUs currently discharging to or scheduled to discharge subsequent to the POTW promulgation of an applicable categorical standard), shall submit their Baseline Monitoring Report to the director a report which contains the information listed in subsection (e)(2) of this section. At Director at least ninety (90) days prior to commencement of their discharge, new sources, and sources that become CIUs subsequent to the promulgation of an applicable categorical standard, shall submit to the director a report which contains the information listed in subsection (e)(2) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(2) —Users described above

(4) The Baseline Monitoring Report shall submitcontain the following information set forth below:

(Aa) Identifying Information. The name and address of the facility, including the name of the operator and owner.

(B) —b) New Sources. All new sources (including any Sources that become CIUs subsequent to the promulgation of an applicable categorical standard) shall report the method of pretreatment it intends to use to meet applicable categorical standards and shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(c) Environmental Permits. A list of any environmental control permits held by or for the facility.

(Cd) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such userUser. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(De) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(Ef) Measurement of Pollutants.

(i) The categorical pretreatment standards applicable to each regulated process.

(ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the directorDirector, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 10.16.035 of this chapter. In cases where the Standard requires compliance with Best Management Practice or pollution prevention alternative, the User shall submit documentation and required by the Director or the applicable Standard to determine compliance with the Standard.

(iii) —(iii) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or

mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority.

(iv) Sampling must be performed in accordance with procedures set out in Section 10.16.035 of this chapter.

(Fg) Certification. A statement, reviewed by the ~~user's~~User's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(Gh) Compliance Schedule. If additional pretreatment, installation of technology, and/or O&M will be required to meet the pretreatment standards, the shortest compliance schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in this chapter.

(Hi) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with subsection (de) of this section.

(fg) Slug Control Plan. ~~Permitted industrial users~~

(1) All Significant Industrial Users shall develop, submit to the City for approval, and implement a slug control plan, along with their application for a wastewater discharge permit.

(2) Slug control plans shall address, at a minimum, the following:

(1a) Description of discharge practices, including nonroutine batch discharges.

(2b) Description of stored chemicals.

(3c) Procedures for immediately notifying the director of any accidental or slug discharge, or any changes at its facility affecting the potential for a slug discharge.

(4d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(53) Review and approval of such plans and operating procedures by the ~~city~~City shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of this title.

(64) Dischargers shall notify the ~~city~~City by telephone within one hour upon the discovery of an occurrence of a "slug discharge" or accidental discharge of substances prohibited by this title. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume, and corrective actions. Any discharger who discharges a slug load of prohibited materials shall be liable for any expense, loss or damage to the POTW, in addition to the amount of any fines imposed on the ~~city~~City on account thereof under state or federal law.

(75) Signs shall be permanently posted in conspicuous places on discharger's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such discharge with respect to emergency notification procedure, as outlined in [Section] 10.12.030 of this title.

(86) The ~~industrial user~~Industrial User shall implement the slug control plan and train relevant staff on an annual basis. Training records are to be kept on file for a minimum of three years. Inspection of chemical storage areas logs and pretreatment system maintenance logs must be kept on file for a minimum of three years.

(97) The ~~slug-control-plan~~Slug Control Plan must be updated when any changes occur at the facility that could affect the potential for a slug discharge. Such changes may include changes to emergency contact names, telephone numbers or manufacturing processes, and changes to chemical inventories or locations at the facility. The ~~industrial-user~~Industrial User shall notify the ~~director~~Director of such changes and submit an updated ~~slug-control-plan~~Slug Control Plan to the ~~director~~Director within thirty days of the changes occurring at the facility.

(eh) Reports of Changed Conditions. Each user shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the user has submitted initial notification to the POTW. Each user must notify the director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty days before the change.

- (1) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 10.16.020 of this chapter.
- (2) The director may issue a wastewater discharge permit under Section 10.16.020 of this chapter or modify an existing wastewater discharge permit under Section 10.16.020(f) in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases or decreases of twenty percent or greater, and the discharge of any previously unreported pollutants.

(Ord. 06-11 § 9, 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.035— Wastewater Sample collection.**

Samples of wastewater collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, ~~based on data that is and must be~~ representative of conditions occurring during the reporting period. The ~~director~~Director shall indicate the frequency of monitoring necessary to assess and assure compliance by the ~~user~~User with applicable Pretreatment Standards and Requirements in wastewater discharge permits.

~~(a)~~

(a) Except as indicated in ~~sections (Sections b) and (c) of this section below,~~ the ~~user~~User must collect wastewater samples using ~~twenty-four-24-hour flow--~~proportional composite sampling techniques, unless time--proportional composite sampling or grab sampling is authorized by the ~~director~~Director. Where time--proportional composite sampling or grab sampling is authorized by the ~~director~~Director, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a ~~twenty-four-24-hour~~ period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the ~~director~~Director, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Maximum Allowable Discharge Limits.

~~(b) —Samples~~

(b) Users shall collect samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds ~~must be obtained~~ using grab collection techniques.

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~~(e) For sampling required~~

~~(c) Users shall collect samples in support of baseline monitoring Compliance Date Reports and ninety-day compliance reports required in [Section] Baseline Monitoring Reports under section 10.16.030(e) and [40 CFR 403.12(b) and (d)], as follows:~~

~~1. Facilities without historical sampling data.~~

~~Facilities that do not have historical sampling data shall collect a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which:~~

~~2. Facilities with historical sampling data are available.~~

~~Facilities that have historical sampling data shall collect a minimum of four (4) grab samples for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds unless authorized by the director may authorize Director to use a lower minimum. For the reports required by paragraphs 10.16.030(b) (40 CFR 403.12(e) and 403.12(h)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.~~

~~Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

**10.16.040 - Monitoring facilities.**

- (a) Each industrial discharger shall provide and operate, at the industrial discharger's own expense, a monitoring facility to allow inspection, sampling and flow measurement of each sewer discharge to the ~~cityCity~~. Each monitoring facility shall be situated on the industrial discharger's premises, except where such a location would be impractical or cause undue hardship on the industrial discharger, the ~~cityCity~~ may concur with the facility being constructed in the public street or sidewalk area providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the industrial discharger.
- (b) All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. Construction shall be completed within one hundred days of receipt of permit by industrial discharger.

(Ord. 85-48 § 3 (part), 1985).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.050— Right of Entry; Inspection and sampling.**

The ~~cityCity~~ may inspect any properties or any monitoring facilities of any industrial discharger ~~at any time and without notice~~ to determine compliance with the requirements of this title. The industrial discharger shall allow the ~~cityCity~~, or its representatives, ready access at any time to all parts of the premises of the industrial discharger for the ~~purposes of purpose of conducting any of their duties including, but not limited to, inspection, sampling, copying and/or records examination or in the performance of any of their duties of records~~. The ~~cityCity~~ shall have the right to set up on the industrial ~~discharger's~~discharger's property such

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devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations at any time and without notice.

If the city collects samples for an industrial user which are required by an industrial waste pretreatment permit and a violation is detected, the city must repeat sampling within thirty days of becoming aware of the exceedance.

(Ord. 85-48 § 3 (part), 1985).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.060 - Monitoring waivers.**

~~Permitted industrial users can request the director to~~

(a) ~~The Director may grant an Industrial User subject to a Categorical Pretreatment Standard a~~  
monitoring waiver for a pollutant regulated by a Categorical Pretreatment Standard that the Industrial User can demonstrate is neither not present nor and is not expected to be present in their discharge. The industrial user must demonstrate to the director's satisfaction that the pollutant is neither present nor expected to be present in the Industrial User's discharge, or is present only present at background levels from intake water and without any increase in the pollutant due to the industrial user's Industrial User's activities. The waiver is subject to remaining parts of this section.

~~At a minimum, the industrial user shall submit the following information with its~~

(b) ~~A request for a monitoring waiver shall, at a minimum, include:~~

~~(a)~~

(1) ~~Sampling data and other technical factors demonstrating that the pollutant is not present and is not expected to be present in the Industrial User's discharge;~~

(b) ~~Data from at least one sampling of the facility's process wastewater prior to any treatment; and~~

(c) ~~The certification statement in 40 CFR 403.6(a)(2)(ii), signed by an authorized representative.~~

(2) ~~In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes; and~~

(3) ~~The waiver is not available for monitoring required for the baseline monitoring report required under 40 CFR 403.12(b) or the ninety-day compliance report required under 40 CFR 403.12(d). The waiver for pollutants not present cannot be used in place of any certification process established in a categorical pretreatment standard such as the certification process for total toxic organic pollutants under the metal finishing regulations. Nor does the waiver supersede certification processes and requirements that are established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard. The certification statement 10.16.030(e)(2) of this title signed by an authorized representative.~~

Non-detectable sample results. Monitoring requirements for the pharmaceutical industry can be reduced only by the waiver procedures to a frequency of once per year and cannot be waived entirely (40 CFR 439.2(a)).

Monitoring waivers are valid only for the duration of the industrial user's wastewater permit, but in no case longer than five years. To continue the waiver for the period of the next permit cycle, the industrial

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~~user must reapply for the waiver, including the submission of appropriate monitoring data. Monitoring waivers may be revoked at any time per the director's discretion.~~

~~Upon approval of the monitoring waiver and revision of the industrial user's permit by the director, the industrial user must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user:~~

~~"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1)."~~

~~In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the user must immediately: Comply with the monitoring requirements of [Section] 10.16.030 of this chapter or other more frequent monitoring requirements imposed by the director; and notify the director.~~

~~(c) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.~~

~~Any grant of the~~

~~(d) The Director shall include any monitoring waiver ~~by the director must be included~~ as a condition ~~in~~ of the ~~user's~~ Industrial User's discharge permit. The reasons supporting the waiver and any information submitted by the ~~user~~ Industrial User in its request for the monitoring waiver must be maintained by the ~~director~~ Director for 3 years after expiration of the waiver.~~

~~(e) The ~~director~~ Director may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the EPA, where the ~~industrial user's~~ Industrial User's total categorical wastewater flow does not exceed any of the requirements listed in 40 CFR 403.12(e)(3).~~

~~(f) Exceptions and limitations.~~

~~(1) Monitoring waivers are not available for monitoring required for Compliance Date Reports and Baseline Monitoring Reports under section 10.16.030 and [40 CFR 403.12(b) and (d)].~~

~~(2) Monitoring waivers cannot be used in place of any certification process established in a categorical Pretreatment Standard such as the certification process for total toxic organic pollutants under the metal finishing regulations.~~

~~(3) Monitoring waivers do not supersede certification processes and requirements that are established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.~~

~~(4) Monitoring requirements for the pharmaceutical industry can be reduced only by the waiver procedures to a frequency of once per year and cannot be waived entirely (40 CFR 439.2(a)).~~

~~(5) Monitoring waivers are not available to Industrial Users that in the last two (2) years have been in Significant Noncompliance as is defined in 10.04.020 of this Title.~~

~~(g) Duration/Expiration. Monitoring waivers expire at the end of the Industrial User's wastewater permit, or five years from the date the monitoring waiver was issued, whichever event first occurs.~~

(h) Renewal. To receive a new monitoring waiver for the period of the Industrial User's next permit cycle, the Industrial User shall apply for a new monitoring waiver, including submission of all required monitoring data and certifications.

(i) Revocation. Monitoring waivers may be revoked at any time at the Director's discretion.

(j) Certification Statement. On each periodic report following approval of the monitoring waiver and revision of the Industrial User's permit by the Director, the Industrial User shall certify that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User, by providing the following certification statement:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1)."

(k) If a waived pollutant is found to be present or is expected to be present in the Industrial User's discharge based on changes that occur in the Industrial User's operations, the Industrial User shall immediately do the following:

- (1) Notify the Director that a waived pollutant is present or expected to be present in the Industrial User's discharge; and
- (2) Comply with the monitoring and reporting requirements of 10.16.030, 10.16.035, and 10.16.040 of this section as well as any more frequent monitoring requirements that may be imposed by the Director.

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

**10.16.070 - False statements.**

~~Anyone Any significant industrial user who shall knowingly or intentionally make any false statements, report of, document, or intentionally give statement, or provide inaccurate monetary information shall be reported to the Environmental Protection Agency for investigation of a criminal act. The City may impose additional administrative fines and civil penalties upon conviction be punished by implementation of a civil penalty.~~

(Ord. 85-48 § 3 (part), 1985).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.080 - Confidential information.**

(a) Information and data furnished to the ~~director~~Director with respect to the nature and frequency of discharge shall be available to the public or other governmental agency without restriction unless the industrial discharger specifically requests and is able to demonstrate to the satisfaction of the ~~director~~Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the industrial discharger.

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- (b) When requested by an industrial discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this title, the National Pollutant Discharge Elimination System (NPDES) Permit, state disposal system permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the industrial discharger furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
- (c) Information accepted by the cityCity as confidential, shall not be transmitted to any governmental agency or to the general public by the cityCity until and unless a ten-day notification is given to the industrial discharger.

(Ord. 85-48 § 3 (part), 1985).

(Ord. No. 12-28, § 1, 12-19-2012)

**10.16.090—Emergency suspension of service and discharge permits.**

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

~~(a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed, unless the termination proceedings in Section 10.16.095 of this chapter are initiated against the user.~~

~~(b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under Chapter 10.04 or 10.16 of this title.~~

~~(Ord. 06-11 § 13, 2006).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

**10.16.095—Termination of discharge.**

(a) In addition to the provisions in Section 10.16.100 of this chapter, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

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~~(4) —Refusal of access to the user's premises for the purpose of inspection monitoring or sampling, or;~~

~~(5) —Violation of the pretreatment standards in Chapter 10.12 of this title.~~

(b) —Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Chapter 10.04 and of this chapter why the proposed action should not be taken. Exercise of this option by the director shall not be a bar to, or a bar prerequisite for, taking any other action against the user.

~~(e) —The director may for good cause shown suspend the wastewater treatment service and the wastewater discharge permit of an industrial discharger when it appears to the director that an actual or threatened discharge presents or threatens an imminent or substantial danger to the health or welfare of persons, substantial danger to the environment, interferes with the operation of the POTW, or violates any pretreatment limits imposed by this title or any wastewater discharge permit issued pursuant to this title. Any industrial discharger notified of the suspension of the city's wastewater treatment service and/or the industrial discharger's wastewater discharge permit, shall within a reasonable period of time, as determined by the director, cease all discharges. In the event of failure of the industrial discharger to comply voluntarily with the suspension order within the specified time, the director shall commence judicial proceedings immediately thereafter to compel the industrial discharger's compliance with such order. The director shall reinstate the wastewater discharge permit and/or the wastewater treatment service and terminate judicial proceedings upon receipt of proof by the industrial discharger of the elimination of the noncomplying discharge or conditions creating the threat of imminent or substantial danger as set forth above.~~

~~(Ord. 06-11 § 14, 2006).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### 10.16.100 —Revocation of permit.

The city may revoke the permit of any industrial discharger for good cause, including, but not limited to the following reasons:

~~(a) —Failure to factually report the wastewater constituents and characteristics of its discharge;~~

~~(b) —Failure to report significant changes in wastewater constituents or characteristics prior to changed discharge;~~

~~(c) —Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;~~

~~(d) —Falsifying self-monitoring reports and certification statements;~~

~~(e) —Tampering with monitoring equipment;~~

~~(f) —Failure to meet effluent limitations;~~

~~(g) —Failure to pay fines;~~

~~(h) —Failure to pay sewer charges;~~

~~(i) —Failure to meet compliance schedules;~~

~~(j) —Failure to complete a wastewater survey or the wastewater discharge permit application;~~

~~(k) —Failure to provide advance notice of the transfer of business ownership of a permitted facility;~~

~~(l) —Refuses reasonable access to the industrial discharger's premises by representatives of the city for the purpose of inspection or monitoring; or~~

~~(m) —Violates the conditions of any Pretreatment Standard or Requirement, its permit, or this title, or any final judicial order entered with respect thereto. (Ord. 85-48 § 3 (part), 1985).~~

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~~(n) Causes the POTW to violate its NPDES permit.~~

~~(o) Failure to adhere to the terms of a special agreement.~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

~~10.16.110 Notification of violation—Administrative adjustment.~~

~~Whenever the city finds that any industrial discharger has engaged in conduct which justifies revocation of a wastewater discharge permit, pursuant to Section 10.16.100 hereof, the city shall serve or cause to be served upon such industrial discharger a written notice either personally or by certified or registered mail, return receipt requested, stating the nature of the alleged violation. Within thirty days of the date of receipt of the notice, the industrial discharger shall respond personally or in writing to the city, advising of its position with respect to the allegations and where necessary, establish a plan for the satisfactory correction thereof.~~

~~(Ord. 85-48 § 3 (part), 1985).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

~~10.16.120 Financial responsibility.~~

~~An industrial discharger that discharges a substance that obstructs or damages the POTW will be held financially liable for the damages incurred.~~

~~(Ord. 85-48 § 3 (part), 1985).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

~~10.16.130 Show cause hearing.~~

~~Where the violation of Section 10.16.100 hereof is not corrected by timely compliance by means of administrative adjustment, the city may order any industrial discharger which causes or allows conduct prohibited by Section 10.16.100 hereof, to show cause before the city or its duly authorized representative, why the proposed permit revocation action should not be taken. A written notice shall be served on the industrial discharger by personal service, certified or registered, return receipt requested, specifying the time and place of a hearing to be held by the city or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action, and directing the industrial discharger to show cause before the city or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten days before the hearing. Service may be made on any agent, officer, or authorized representative of an industrial discharger. The proceedings at the hearing shall be considered by the city which shall then enter appropriate orders with respect to the alleged improper activities of the industrial discharger. Appeal of such orders may be taken by the industrial discharger in accordance with applicable local or state law.~~

~~(Ord. 85-48 § 3 (part), 1985).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

~~10.16.140 Judicial proceedings.~~

~~Following the entry of any order by the city with respect to the conduct of an industrial discharger contrary to the provisions of Section 10.16.100 hereof, the corporation counsel for the city may, following~~

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~~the authorization of such action by the city, commence an action for appropriate legal and/or equitable relief in the appropriate court.~~

~~(Ord. 85-48 § 3 (part), 1985).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

~~10.16.150 Enforcement actions~~ **Annual publication.**

Publication of Users in Significant Noncompliance. The ~~director~~ **Director** shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW a list of the ~~users~~ **Users** which, during the previous twelve months, were in Significant Noncompliance with applicable ~~pretreatment standards~~ **Pretreatment Standards** and ~~requirements~~ **Requirements**. The term ~~"significant noncompliance"~~ **"Significant Noncompliance"** shall mean:

- (a) ~~Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all wastewater measurements taken for the same pollutant parameter during a six-month period exceed a numeric pretreatment standard or requirement~~ **Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all wastewater measurements taken for the same pollutant parameter during a six-month period exceed a numeric Pretreatment Standard or Requirement**, including instantaneous limits, as defined by 40 CFR 403.3(l);
- (b) ~~Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all wastewater measurements taken for the same pollutant parameter during a six-month period equal or exceeds the product of the numeric pretreatment standard or requirement~~ **Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all wastewater measurements taken for the same pollutant parameter during a six-month period equal or exceeds the product of the numeric Pretreatment Standard or Requirement** including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (c) ~~Any other discharge violation that the director believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;~~
- (d) ~~Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the director's exercise of its emergency authority to halt or prevent such a discharge;~~
- (e) ~~Failure to meet, within ninety days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;~~
- (f) ~~Failure to provide within forty-five days after the due date, any required reports, including baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;~~
- (g) ~~Failure to accurately report noncompliance; or~~

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(h) — ~~Any other violation or group of violations, which may include a violation of **best management practices**~~Best Management Practices, which the ~~director~~Director determines will adversely affect the operation or implementation of the local ~~pretreatment~~Pretreatment program.

(Ord. 12-28 § 1, 2012; Ord. 06-11 § 15, 2006).

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

~~10.16.160 — Right of appeal.~~

~~Any industrial discharger or any interested party shall have the right to request in writing an interpretation or ruling by the city on any matter covered by this title and shall be entitled to a prompt written reply. In the event that such inquiry is by an industrial discharger and deals with matters of performance or compliance with this title or deals with a wastewater discharge permit issued pursuant hereto for which enforcement activity relating to an alleged violation is the subject, receipt of an industrial discharger's request shall stay all enforcement proceedings, other than emergency suspensions of service made under Section 10.16.100, pending receipt of the aforesaid written reply. Appeal of any final judicial order entered pursuant to this title may be taken in accordance with local and state law.~~

~~(Ord. 85-48 § 3 (part), 1985).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### ~~10.16.165 — 100~~ **Permit appeals.**

Any person, including the ~~user~~User, may petition the ~~utilities service board~~Utilities Service Board to reconsider the terms of a wastewater discharge permit within ~~forty-five~~45 days of the effective date of the permit (i.e., the date the permit was approved and signed by the USB).

- (a) — ~~Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.~~
- (b) — ~~In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.~~
- (c) — ~~The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.~~ (Ord. 12-28 § 1, 2012).

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### ~~10.16.170 — Operating upsets. 110~~ **Upsets.**

- (a) — ~~The term upset shall mean an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance due to operational error, improperly designed or inadequate treatment facilities, lack of preventative maintenance or careless or improper operation.~~

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~~(b)~~

(a) Dischargers shall follow emergency notification procedures in ~~Section~~section 10.12.030 within one hour upon the discovery of an ~~operating~~-upset.

~~(c) A documented and verified bona fide operating~~

~~An upset shall be constitute an affirmative defense to any enforcement an action brought by the city against an industrial discharger for any noncompliance with categorical Pretreatment Standards if the title or any wastewater discharge permit issued pursuant hereto, which arises out requirements of paragraph (c) are met. (Ord. violations alleged to have occurred during the period of the upset.~~

~~(b) 12-28 § 1, 2012; Ord. 06-11 §-16, 2006).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

(c) An Industrial User who wishes to establish the affirmative defense of an operating upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the Industrial User can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(3) The industrial User has met the notification requirements of paragraph (b) of this section;

(d) In an enforcement proceeding the Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.

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

#### ~~10.16.180-120~~ Pass through and interference.

All ~~industrial users~~Industrial Users are prohibited from discharging any substance that could cause pass through or interference at the POTW. (Ord. 12-28 § 1, 2012).

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### ~~10.16.190-130~~ Bypass.

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(a) ~~Bypass means the intentional diversion of wastestreams from any portion of the permittee's treatment facility as specified in 40 CFR 403.17.~~ If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the ~~director~~Director, if possible at least ~~ten~~10 days before the scheduled date of the bypass.

(b) ~~Dischargers shall follow emergency notification procedures in Section~~section 10.12.030 within one hour upon the discovery of an unanticipated bypass. ~~(Ord. 12-28 § 1, 2012).~~

~~(c) (Ord. No. 12-28, § 1, 12-19-2012)~~

~~Bypass is prohibited and the City may take enforcement action against an Industrial User for a bypass, unless:~~

- ~~(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;~~
- ~~(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and~~
- ~~(3) The Industrial User submitted notices as required under paragraph (a) of this section.~~

~~(d) The City may approve an anticipated bypass, after considering its adverse effects, if the City determines that it will meet the three conditions listed in paragraph (c) of this section.~~

#### ~~10.16.200—140 Records retention.~~

All industrial dischargers subject to this title shall retain and preserve for no less than three years, any records, books, documents, chain-of-custody forms, training logs, inspection logs, maintenance logs, Best Management Practice compliance documentation, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of an industrial discharger in connection with its discharge. Such records shall include for all samples:

- ~~(a) (a)—~~The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- ~~(b) (b)—~~The dates analyses were performed;
- ~~(c) (c)—~~Who performed the analyses;
- ~~(d) (d)—~~The analytical techniques/methods ~~used~~use; and
- ~~(e) (e)—~~The results of such analyses.

All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the ~~city~~City pursuant hereto shall be retained and preserved by the industrial discharger until all enforcement activities have been concluded and all periods of limitation with respect to any and all appeals have expired. ~~(Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).~~

~~(Ord. 85-48 § 3 (part), 1985).~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### ~~10.16.240—150 Fees.~~

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It is the purpose of this section to provide for the payment of fees from dischargers to the ~~city's~~City's wastewater disposal system, to compensate the ~~city~~City for the cost of administration of the pretreatment program established herein.

The ~~city~~City shall adopt charges and fees which may include:

- (a) ~~\_\_\_~~ Fees for monitoring, inspections and surveillance procedures;
- (b) ~~\_\_\_~~ Fees for permit applications (permits only);
- (c) ~~\_\_\_~~ Fees for filing appeals;
- (d) ~~\_\_\_~~ Fees for reviewing accidental discharge procedures and construction. (Ord. 12-28 § 1, 2012; Ord. 85-48 § 3 (part), 1985).

(~~Ord. 85-48 § 3 (part), 1985~~).

(~~Ord. No. 12-28, § 1, 12-19-2012~~)

**10.16.220—160 Regulation of wastes from other jurisdictions.**

- (a) ~~\_\_\_~~ If another municipality, or ~~user~~User located within another municipality, contributes wastewater to the POTW, the ~~director~~Director shall enter into an intermunicipal agreement with the contributing municipality.
- (b) ~~\_\_\_~~ Prior to entering into an agreement required by subsection (a) of this section, the ~~director~~Director shall request the following information from the contributing municipality:
  - (1) ~~\_\_\_~~ A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  - (2) ~~\_\_\_~~ An inventory of all ~~users~~Users located within the contributing municipality that are discharging to the POTW; and
  - (3) ~~\_\_\_~~ Such other information as the ~~director~~Director may deem necessary.
- (c) ~~\_\_\_~~ An intermunicipal agreement, as required by subsection (a) of this section, shall contain the following conditions:
  - (1) ~~\_\_\_~~ A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this title and local limits which are at least as stringent as those set out in Chapter 10.12 of this title. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the ~~city's~~City's title or local limits;
  - (2) ~~\_\_\_~~ A requirement for the contributing municipality to submit a revised ~~user~~User inventory on at least an annual basis;
  - (3) ~~\_\_\_~~ A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the ~~director~~Director; and which of these activities will be conducted jointly by the contributing municipality and the ~~director~~Director;
  - (4) ~~\_\_\_~~ A requirement for the contributing municipality to provide (the ~~director~~Director) with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  - (5) ~~\_\_\_~~ Limits on the nature, quality, and volume of the contributing ~~municipality's~~municipality's wastewater at the point where it discharges to the POTW;
  - (6) ~~\_\_\_~~ Requirements for monitoring the contributing ~~municipality's~~municipality's discharge;
  - (7) ~~\_\_\_~~ A provision ensuring the ~~director~~Director access to the facilities of ~~users~~Users located within the contributing ~~municipality's~~municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the ~~director~~Director; and
  - (8) ~~\_\_\_~~ A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

(Ord. 12-28 § 1, 2012; Ord. 06-11 §-17, 2006).

(~~Ord. No. 12-28, § 1, 12-19-2012~~)

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## **Chapter 10.17— FOOD SERVICE ESTABLISHMENT WASTEWATER DISCHARGERS**

### **Sections:**

- 10.17.010 Purpose and intent.**
- 10.17.020 Definitions.**
- 10.17.030 Applicability.**
- 10.17.040 Responsibility for administration.**
- 10.17.050 Ultimate responsibility.**
- 10.17.060 Installation requirements for new food service establishments.**
- 10.17.070 Installation requirements for newly remodeled food service establishments.**
- 10.17.080 Installation requirements for existing food service establishments.**
- 10.17.090 Installation requirements for new commercial establishments. Design criteria.**
- 10.17.100 Installation requirements for food service establishments causing or contributing to a sanitary sewer overflow. Best management practices.**
- 10.17.110 Design criteria. Inspections.**
- 10.17.120 Best Management Practices. Enforcement.**
- 10.17.130 Inspections. Exemptions.**

#### **10.17.010 - Purpose and intent.**

The purpose of this chapter is to minimize the introduction of fats, oils, and ~~greases~~grease (FOG) into the ~~city's~~City's wastewater collection system. The main components of the chapter are proper sizing, installation, and maintenance of grease traps and grease interceptors. The administrative and inspection requirements of the food service establishments are written herein as well.

(Ord. No. 12-28, § 1, 12-19-2012)

#### **10.17.020 - Definitions.**

Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section:

"

(a) "Automatic ~~grease removal device~~"**Grease Removal Device**" means a mechanical device that automatically separates grease from wastewater into a container and is usually set on a timer.

"

(b) "Best ~~management practice~~**Management Practice** or "~~BMP~~" means management and operational procedures that are intended to prevent pollutants from entering a ~~facility's~~facility's wastestream or from reaching a discharge point. BMPs include schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the general and specific prohibitions listed in sections 40 Code of Federal Regulations (CFR) 403.5(a)(1) and (b).

"

(c) "City" or "~~CBU~~" means the City of Bloomington, Indiana, acting through its ~~utilities service board~~.**Utilities Service Board.**

"

(d) "Director" means the ~~director~~**Director** of the utility or any duly authorized representative acting on his behalf.

"

(e) "Domestic wastewater" means wastewater from sanitary fixtures such as toilets and urinals.

"

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(f) ~~"Food service establishment"~~"Service Establishment" or ~~"FSE"~~ means any facility, which cuts, cooks, bakes, prepares, or serves food, or which disposes of food-related wastes. FSEs do not include residential users, but may include dormitories, nursing home facilities, fraternities, sororities, schools, hospitals, prisons and other facilities as designated by the ~~director~~Director.

"

(g) ~~"Garbage disposal"~~"Disposal" means a device that shreds or grinds up solid or semisolid waste materials into smaller portions for discharge into the sanitary sewer.

"

(h) ~~"Grease"~~ means a material composed primarily of fats, oil, and grease from animal or vegetable sources. The terms fats, ~~oil~~oils, and grease, or FOG, shall be deemed as grease by definition.

"

~~"Grease interceptor"~~"Interceptor" means a device usually located outdoors and underground and is so constructed as to separate, trap, and hold fats, oils, and ~~greases from the wastewater discharged by a facility to prevent these substances from entering the sanitary sewer.~~

(i) ~~"Grease retention device"~~ means a device so constructed as to separate, trap, and hold fats, oils, and ~~greases~~grease from the wastewater discharged by a facility to prevent these substances from entering the sanitary sewer.

(j) ~~"Grease Retention Device"~~ means a device so constructed as to separate, trap, and hold fats, oils, and ~~grease from the wastewater discharged by a facility to prevent these substances from entering the sanitary sewer.~~ Grease retention devices include grease interceptors, grease traps, and alternative grease retention devices.

"

(k) ~~"Grease trap"~~"Trap" means a device usually located under or in close proximity to sinks and is so constructed as to separate, trap, and hold fats, oils, and ~~greases~~grease from the wastewater discharged by a facility to prevent these substances from entering the sanitary sewer.

"

(l) ~~"Grease hauler"~~Hauler or ~~transporter~~"Transporter" means one who transfers grease waste from the site of a ~~user~~User to an approved site for disposal and treatment. The hauler is responsible for assuring that all Federal, State, and local regulations are followed regarding waste transport- ~~and disposal.~~

"

(m) New FSE means a food service establishment that is opening for the first time, opening in a new location, or opening under new ownership or a new name.

(n) ~~"Newly remodeled"~~Remodeled FSE means an FSE that is repairing, replacing and/or, rearranging kitchen fixture units and/or the installing:

1. Any kitchen plumbing system;
2. Any kitchen appliances, fixtures or units that attach to the plumbing system; and/or
3. Any sanitary sewer lateral.

(Ord. No. 12-28, § 1, 12-19-2012)

#### **10.17.030 - Applicability.**

This chapter shall apply to all food service establishments and to new commercial ~~construction sites located~~establishments being constructed in an area zoned for food service establishments.

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(Ord. No. 12-28, § 1, 12-19-2012)

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

**10.17.040 - Responsibility for administration.**

The ~~city~~City shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the mayor of the authorized enforcement agency to persons or entities acting in the beneficial interest of, or in the employ of the agency.

(Ord. No. 12-28, § 1, 12-19-2012)

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**10.17.050 - Ultimate responsibility.**

The standards set forth in this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. No. 12-28, § 1, 12-19-2012)

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**10.17.060 - Installation requirements for new food service establishments.**

All ~~proposed new~~ FSEs that discharge wastewater into the ~~city~~City sanitary sewer system shall be required to install an approved, properly operated, and maintained grease interceptor. All interceptor units shall be of the type and capacity approved by the city. Grease interceptors shall be located so as to provide easy access to the manhole covers for maintenance and inspection activities.

(Ord. No. 12-28, § 1, 12-19-2012)

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**10.17.070 - Installation requirements for newly remodeled food service establishments.**

Newly remodeled FSEs are required to install an approved, properly operated, and maintained grease interceptor. Grease interceptors shall be located so as to provide easy access to the manhole covers for maintenance and inspection activities. All interceptor units shall be installed outdoors of the FSE's building unless the ~~user~~User can demonstrate to the ~~city~~City that an outdoor interceptor would not be feasible.

(Ord. No. 12-28, § 1, 12-19-2012)

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**10.17.080 - Installation requirements for existing food service establishments.**

All existing FSEs that discharge wastewater into the ~~city's~~City's sanitary sewer system are required to install an approved, properly maintained grease trap unless specifically exempted by the ~~city~~City. All grease traps units shall be of the type and capacity approved by the ~~director~~Director.

(Ord. No. 12-28, § 1, 12-19-2012)

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

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**10.17.090— Installation requirements for new commercial establishments.**

All proposed new commercial establishments located within an area zoned for food service establishments that discharge wastewater into the City of Bloomington sanitary sewer system shall be required to install an approved, properly operated, and maintained grease interceptor. All interceptor units shall be of the type and capacity approved by the City. Grease interceptors shall be located so as to provide easy access to the manhole covers for maintenance and inspection activities.

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**10.17.100 Installation Requirements for food service establishments causing or contributing to a Sanitary Sewer Overflow.**

All FSEs causing or contributing to a Sanitary Sewer Overflow into a building, on a private lateral, sewer main, or the POTW must install an approved, properly operated, and maintained grease interceptor. Grease interceptors shall be located so as to provide easy access to the manhole covers for maintenance and inspection activities. All interceptor units shall be installed outdoors of the FSE's building unless the User can demonstrate to the City that an outdoor interceptor would not be feasible.

**10.17.110 Design criteria.**

- (a) ~~Domestic wastewater shall not be discharged into a grease retention device.~~
- (b) ~~Wastewater from dishwashing sinks, mop sinks, hand sinks, and floor drains shall be discharged into a grease retention device.~~
- (c) ~~Interior plumbing plans shall be submitted to the ~~director~~Director depicting all fixtures proposed to be connected to a grease retention device.~~
- (d) ~~Grease retention device proposals shall be submitted to the ~~director~~Director. Grease retention devices shall not be installed without the prior approval of the ~~director~~Director.~~
- (e) ~~Grease interceptors shall be constructed in accordance with the City of Bloomington Utilities Standard Detail #21 and shall have a minimum of two compartments with fittings designed for grease retention. The minimum size for a grease interceptor is ~~seven hundred fifty~~750 gallons. Garbage disposals and dishwashers shall not be connected to a properly sized grease interceptor.~~
- (f) ~~All grease interceptors shall be designed to allow for complete access for inspection and maintenance of inner chambers as well as viewing and sampling of wastewater discharged to the sanitary sewer.~~
- (g) ~~Grease traps shall be designed to allow for complete access for inspection and maintenance activities. Newly installed grease traps shall include a filter that is designed to prevent the discharge of grease from the unit. Dishwashers and garbage disposals shall not be connected to grease traps.~~
- (h) ~~Alternative grease retention devices or technologies shall be subject to the approval of the ~~director~~Director. Such approval shall be based on demonstrated removal efficiencies of the proposed technology.~~
- (i) ~~The installation of new or replacement of existing garbage disposal units in FSEs is prohibited.~~

(i) Garbage disposals are prohibited in all FSEs. (Ord. No. 12-28, § 1, 12-19-2012)

**10.17.100 - Best management practices.**

The following Best Management Practices or BMPs shall be implemented and adhered to by all FSEs:

- (a) Installation. All new and existing FSEs are required to install a grease retention device.
- (b) Pumping. All grease interceptors and traps shall be maintained by the ~~user~~User at the ~~user's~~User's expense. Maintenance shall include the complete removal of all contents, including floating materials, wastewater, and bottom sludges and solids.
- (c) Pumping Prohibitions. Decanting or discharging of removed waste liquid back into the interceptor or trap from which the waste was removed or any other grease interceptor or trap, for the purpose of reducing the volume to be disposed, is strictly prohibited.
- (d) Grease Interceptor Maintenance Frequency. Grease interceptors must be pumped out completely a minimum of once every ~~ninety~~90 days or more frequently if the unit has accumulated waste, both floatable and settleable, accounting for ~~twenty-five percent~~25% of its wetted depth, as measured from the static water level to the interior tank bottom.
- (e) Grease Interceptor Reporting Requirements. Grease hauler pumping receipts must be mailed, faxed, or electronically submitted to the ~~director~~Director within fourteen days of the date of grease interceptor maintenance.

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- (f) Grease Trap Maintenance Frequency. Grease traps must be pumped/cleaned out completely a minimum of once every ~~thirty~~30 days or more frequently if the unit has accumulated waste, both floatable and settleable, accounting for ~~twenty-five percent~~25% of its wetted depth, as measured from the static water level to the interior tank bottom.
- (g) Grease Trap Reporting Requirements. Each time the grease trap is cleaned out by the FSE, the FSE is required to fill out the Grease Trap Maintenance Verification Log. The log shall include the date, time, volume of waste removed, disposal site, and signature. The logs must be kept on file at the facility for a minimum of two years and must also be made available to the ~~director~~Director during inspections.

If the FSE hires a grease hauler to pump out the grease trap, the FSE is required to submit the grease hauler's receipts to the ~~director~~Director. The receipts must be mailed, faxed, or electronically submitted to the ~~director~~Director within fourteen days of the date of grease trap maintenance.

- (h) Chemical Treatment. The use of chemical treatments such as bacterial additives, emulsifiers, drain cleaners, enzymes, acids, and other chemicals ~~designed~~used to dissolve, purge, digest or remove grease from grease traps ~~or, grease interceptors, or the sanitary sewer~~ is strictly prohibited.
- (i) Dishwashing Requirements. FSEs are required to scrape food into the trash and "dry wipe" grease from pots, pans, and dishware prior to dishwashing. Food waste is required to be disposed of in the trash.

(Ord. No. 12-28, § 1, 12-19-2012)

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### ~~10.17.110-130 Inspections.~~

Authorized personnel of the city, bearing proper credentials and identification, shall have the right to enter upon all properties subject to this program, at any time and without prior notification, for the purpose of inspection, observation, measurement, sampling, testing or record review, as part of this program.

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### ~~10.17.120 Enforcement.~~

~~Enforcement of these regulations shall be in accordance with the provisions of the city utilities "Pretreatment Program Enforcement Response Plan." The enforcement response is based on the type of violation(s) and the number of occurrences. Failure to comply with this program will be grounds for penalty imposition and/or discontinuance of service.~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

#### ~~10.17.130 Exemptions.~~

~~Exemptions shall be made at the director's discretion for FSEs that can demonstrate that their food preparation practices do not produce grease.~~

~~(Ord. No. 12-28, § 1, 12-19-2012)~~

Chapter 10.20 - ILLICIT STORMWATER CONNECTION AND DISCHARGE  
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10.20.010 - Purpose and intent.

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

- (a) To regulate the contribution of pollutants to the municipal separate storm sewer system (MS4) by stormwater discharges by any user;
- (b) To prohibit illicit connections and discharges to the municipal separate storm sewer system;
- (c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this chapter.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.020 - Definitions.

As used in this chapter, the following words have the following meanings unless otherwise designated. Where words are not defined, they shall have the meanings provided in the city utilities "Rules, Regulations and Standards of Service":

- (a) "Authorized enforcement agency" means employees or designees of the mayor of the city.
- (b) "Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- (c) "Clean Water Act" means the Federal Water Pollution Control Act (33 USC 1251 et seq.), and any subsequent amendments thereto.
- (d) "Construction activity" means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more, as defined in 327 IAC 15-5. Such activities include, but are not limited to, clearing and grubbing, grading, excavating, and demolition.
- (e) "Hazardous materials" means any material, including any substance, waste, or combination thereof, which because of its quantity, concentration, or physical, chemical, or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed.
- (f) "Illegal discharge" means any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in Section 10.20.060 of this chapter.
- (g) "Illicit connections" means 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 nonstormwater discharge including sewage, process wastewater, and washwater to enter the storm drain system and any connections to the storm drain system from indoor drains and sinks, regardless of whether such drain or connection had been previously allowed, permitted, or approved by an authorized enforcement agency; or

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- (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 an authorized enforcement agency.
- (h) "Industrial activity" means activities subject to NPDES industrial permits as defined in 327 IAC 15-6.
- (i) "National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to Waters of the United States, whether the permit is applicable on an individual, group, or general areawide basis.
- (j) "Nonstormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.
- (k) "Person" means any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.
- (l) "Pollutant" means anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; and noxious or offensive matter of any kind.
- (m) "Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.
- (n) "Storm drainage system" means publicly-owned facilities by which stormwater is collected and/or conveyed, including, but not limited to, any roads with drainage systems, municipal streets, gutters, curbs, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage channels, reservoirs and other drainage structures.
- (o) "Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.
- (p) "Stormwater pollution prevention plan" means a document which describes the best management practices (BMPs) and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.
- (q) "Wastewater" means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.030 - Applicability.

This chapter shall apply to all water entering the storm drain system generated on any developed and undeveloped lands unless explicitly exempted by an authorized enforcement agency.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

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10.20.040 - Responsibility for administration.

The city shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the mayor of the authorized enforcement agency to persons or entities acting in the beneficial interest of, or in the employ of the agency.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

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10.20.050 - Ultimate responsibility.

The standards set forth in this chapter are minimum standards; therefore this chapter does not intend nor imply that compliance by any person will ensure that there will be no contamination, pollution, nor unauthorized discharge of pollutants.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

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10.20.060 - Discharge prohibitions.

(a) Prohibition of Illegal Discharges. No person shall discharge or cause to be discharged into the municipal storm drain system or watercourses any materials, including, but not limited to, pollutants or waters containing any pollutants that cause or contribute to a violation of applicable water quality standards, other than stormwater. 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 chapter: water line flushing or other potable water sources, landscape irrigation or lawn watering, diverted stream flows, rising groundwater, groundwater infiltration to storm drains, uncontaminated pumped groundwater, foundation or footing drains (not including active groundwater dewatering systems), crawl space pumps, air conditioning condensation, springs, noncommercial washing of vehicles, natural riparian habitat or wetland flows, swimming pools (if dechlorinated—typically less than one part per million chlorine), firefighting activities, irrigation water, street washwater, and any other water source not containing pollutants;
- (2) 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 nonstormwater discharge permitted under an NPDES permit, waiver, or waste discharge order issued to the discharger and administered under the authority of the federal Environmental Protection Agency, 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 was permissible under law or practices applicable or prevailing at the time of connection.

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

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.070 - Suspension of MS4 access.

- (a) Suspension due to Illicit Discharges in Emergency Situations. The city may, without prior notice, suspend MS4 discharge access to a person when such suspension is necessary to stop an actual or threatened discharge, which presents or may present imminent and substantial danger to the environment, or to the health or welfare of persons, or to the MS4 or Waters of the United States. If the violator fails to comply with a suspension order issued in an emergency, the authorized enforcement agency may take such steps as deemed necessary to prevent or minimize damage to the MS4 or Waters of the United States, or to minimize danger to persons.
- (b) Suspension due to the Detection of Illicit Discharge. Any person discharging to the MS4 in violation of this chapter may have their MS4 access terminated if such termination would abate or reduce an illicit discharge. The authorized enforcement agency will notify a violator of the proposed termination of its MS4 access. The violator may petition the authorized enforcement agency for a reconsideration and hearing.
- (c) A person commits an offense if the person reinstates MS4 access to premises terminated pursuant to this section, without the prior approval of the authorized enforcement agency.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.080 - Industrial or construction activity discharges.

Any person subject to an industrial or construction activity NPDES stormwater discharge permit shall comply with all provisions of such permit. Proof of compliance with the permit may be required in a form acceptable to the city or to the allowing of discharges to the MS4.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.090 - Monitoring of discharges.

This section applies to all facilities that have stormwater discharges associated with industrial activity, including construction activity.

Access to Facilities.

- (a) The city shall be permitted to enter and inspect facilities subject to regulation under this chapter as often as may be necessary to determine compliance with this chapter. 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.
- (b) Facility operators shall allow the city 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 stormwater, and the performance of any additional duties as defined by state and federal law.

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- (c) The city 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 stormwater discharge.
- (d) The city 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 stormwater flow and quality shall be calibrated to ensure their accuracy.
- (e) 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 city and shall not be replaced. The costs of clearing such access shall be borne by the operator.
- (f) Unreasonable delays in allowing the city access to a permitted facility is a violation of a stormwater discharge permit and of this chapter. A person who is the operator of a facility with a NPDES permit to discharge stormwater 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 chapter.
- (g) If the city has been refused access to any part of the premises from which stormwater is discharged, and the city is able to demonstrate probable cause to believe that there may be a violation of this chapter, 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 chapter or any order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the authorized enforcement agency may seek issuance of a search warrant from any court of competent jurisdiction.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.100 - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The city will establish requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the United States. The owner or operator of a commercial or industrial establishment shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at the person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWPP) as necessary for compliance with requirements of the NPDES permit.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.110 - Watercourse protection.

Every person owning property through which a watercourse passes, or such person's lessee, shall keep and maintain that part of the watercourse within the property free of trash, debris, excessive vegetation, and other obstacles that would pollute, contaminate, or significantly retard the flow of water through the watercourse. In addition, the owner or lessee shall maintain existing privately owned structures

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within or adjacent to a watercourse, so that such structures will not become a hazard to the use, function, or physical integrity of the watercourse.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.120 - Notification of spills.

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

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.130 - Enforcement.

Notice of Violation. Whenever the city finds that a person has violated a prohibition or failed to meet a requirement of this chapter, the city utilities service board ("USB") may order compliance by written notice of violation to the responsible person. Emergency notifications may be made by an authorized city employee. Such notice may require without limitation:

- (a) The performance of monitoring, analyses, and reporting;
- (b) The elimination of illicit connections or discharges;
- (c) That violating discharges, practices, or operations shall cease and desist;
- (d) The abatement or remediation of stormwater pollution or contamination hazards and the restoration of any affected property;
- (e) Payment of a fine to cover administrative and remediation costs; and
- (f) The implementation of source control or treatment BMPs.

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

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.140 - Appeal of notice of violation.

Any person receiving a notice of violation may appeal the determination of the USB. The notice of appeal must be received within ten days from the date of the notice of violation. Hearing on the appeal before the appropriate authority or his or her designee shall take place within thirty days from the date of receipt of the notice of appeal. The decision of the municipal authority or their designee shall be final.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.150 - 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 thirty days of the decision of the municipal authority upholding the decision of the authorized enforcement agency, then 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 is unlawful for any person, owner, agent or person in possession of any premises to refuse to allow the government agency or designated contractor to enter upon the premises for the purposes set forth above.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.160 - Cost of abatement of the violation.

Within thirty days after abatement of the violation, the owner of the property will be notified of the cost of abatement, including administrative costs. If the amount due is not paid within a timely manner as determined by the decision of the municipal authority 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.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.170 - Injunctive relief.

It is unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter. If a person has violated or continues to violate the provisions of this chapter, the authorized enforcement agency may petition for a preliminary or permanent injunction restraining the person from activities which would create further violations or compelling the person to perform abatement or remediation of the violation.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.180 - Compensatory action.

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

(Ord. 06-10 § 1 (part), 2006).

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(Ord. No. 12-28, § 1, 12-19-2012)

10.20.190 - Violations deemed a public nuisance.

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

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.200 - Civil penalty.

Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to two thousand five hundred dollars per violation per day. The authorized enforcement agency may recover all attorney's fees, court costs, consultant costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28, § 1, 12-19-2012)

10.20.210 - Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

(Ord. 06-10 § 1 (part), 2006).

(Ord. No. 12-28 § 1, 2012)

#### Chapter 10.21 - CONSTRUCTION SITE AND POST CONSTRUCTION STORMWATER CONTROL

##### **Sections:**

10.21.010 - Purpose and intent.

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

- (1) To regulate construction activities disturbing more than one acre of land as governed by 327 IAC 15-5;
- (2) To require construction site operators to develop and implement a construction plan including a stormwater pollution prevention plan in order to receive a land disturbance permit from the city.

(b) Post-construction Control. The purpose of this chapter is also to implement planning procedures that promote and improve water quality. The planning procedures will include, at a minimum, the post-construction requirements of 327 IAC 15-5-6.5(a)(8). The city may require the use of any storage, infiltration, filtering, and/or vegetative practices to reduce the impact of pollutants on stormwater runoff.

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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;
- (6) Directing the community's growth away from sensitive areas and towards areas that can support growth without compromising water quality.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.020 - Definitions.

For the purposes of this chapter, the following shall mean:

"Authorized enforcement agency" means employees or designees of the mayor of the city.

"Best management practices (BMPs)" means schedules of activities, prohibitions of practices, general good house keeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

"Clean Water Act" means the federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), and any subsequent amendments thereto.

"Construction activity" means activities subject to NPDES construction permits. These include construction projects resulting in land disturbance of one acre or more, as defined in 327 IAC 15-5. Such activities include but are not limited to clearing and grubbing, land disturbance, excavating, and demolition.

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

"Illegal discharge" means any direct or indirect nonstormwater discharge to the storm drain system, except as exempted in the Bloomington Municipal Code Chapter 10.20 Illicit Stormwater Connection and Discharge.

"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 nonstormwater 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 an authorized enforcement agency.

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"Indiana Stormwater Quality Manual" means a reference manual developed by the state of Indiana that provides guidance on planning principals, as well as criteria for specific structural and non-structural stormwater management practices.

"Industrial activity" means activities subject to NPDES industrial permits as defined in 327 IAC 15-6.

"National Pollutant Discharge Elimination System (NPDES) stormwater discharge permit" means a permit issued by EPA (or by a state under authority delegated pursuant to 33 USC 1342(b)) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

"Nonstormwater discharge" means any discharge to the storm drain system that is not composed entirely of stormwater.

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

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

"Premises" means any building, lot, parcel of land, or portion of land whether improved or unimproved including adjacent sidewalks and parking strips.

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

"Stormwater" means any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

"Stormwater pollution prevention plan" means a document which describes the best management practices and activities to be implemented by a person or business to identify sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to stormwater, stormwater conveyance systems, and/or receiving waters to the maximum extent practicable.

"Wastewater" means any water or other liquid, other than uncontaminated stormwater, discharged from a facility.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.030 - Applicability.

- (a) This chapter covers any new development or redevelopment construction site resulting in the disturbance of one acre or more of total land area. Persons must meet the general permit rule applicability requirements under 327 IAC 15-2-3. This chapter also applies to disturbances of less than one acre of land that are part of a larger common plan of development or sale if the larger common plan will ultimately disturb one or more acres of land within the corporate limits of the city.
- (b) All terms, conditions, definitions, and other measures defined in 327 IAC 15-5 shall apply except for state permitting process references and submittal deadlines of construction plans.
- (c) This chapter does not apply to persons who obtain an individual NPDES permit under 327 IAC 15-2-6.

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- (d) This chapter does not apply to Indiana University which operates as its own MS4 and has its own NPDES permit under 327 IAC 15-2-6.
- (e) This chapter does not apply to the Indiana Department of Transportation when it conducts its business within the city corporate limit under its NPDES permit under 327 IAC 15.
- (f) This chapter does not apply to the following types of activities:
  - (1) Agricultural land disturbance activities.
  - (2) Forest harvesting activities.
- (g) This chapter 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 Indiana Code 14-34;
  - (3) Municipal solid waste landfills that are accepting waste pursuant to a permit issued by the state department of environmental management under 329 IAC 10 that contains equivalent stormwater requirements, including the expansion of landfill boundaries and construction of new cells either within or outside the original solid waste permit boundary.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.040 - Responsibility for administration.

The city shall administer, implement, and enforce the provisions of this chapter. Any powers granted or duties imposed upon the authorized enforcement agency may be delegated in writing by the mayor of the authorized enforcement agency to persons or entities acting in the beneficial interest of or in the employ of the agency.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.050 - Ultimate responsibility.

The standards set forth herein and promulgated pursuant to this chapter are minimum standards; therefore this chapter does not intend or imply that compliance by any person will ensure that there will not be violations of NPDES permits.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.060 - Responsibility of construction site owner.

(a) The project site owner has the following responsibilities:

- (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the city. Application for an approved construction plan, including post-construction controls required in Section 10.21.110 below, also referred to as a stormwater pollution prevention plan (SWP3) shall be made to the city planning and transportation department. The city planning and transportation department and the city utilities department will establish procedures and specific standards for obtaining an approved SWP3 consistent with the

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provisions of this chapter. The application fee for the SWP3 shall be eighty-five dollars, and until said fee is paid no action shall be taken on the application.

- (2) Complete a sufficient notice of intent letter submitted to the city with a copy sent to the state department of environmental management.
  - (3) Make application for a land disturbance permit in accordance with procedures established by the city.
  - (4) Ensure compliance with this chapter 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 rule and the approved construction plan.
  - (6) Notify the city with a sufficient notice of termination letter with a copy sent to the state department of environmental management.
- (b) For off-site construction activities that provide services (for example, road extensions, sewer, water, and other utilities) to a permitted project site, these off-site activity areas must be considered a part of the permitted project site when the activity is under the control of the project site owner.
- (c) For an individual lot where land disturbance is expected to be one acre or more and the lot lies within a project site permitted under this rule, the individual lot owner shall:
- (1) Ensure that a sufficient construction plan is completed and submitted in accordance with procedures established by the city;
  - (2) Complete his or her own notice of intent letter and submit it to the city;
  - (3) Apply for a building permit in accordance with the procedures established by the city.
- (d) For an individual lot where the land disturbance is less than one acre and the lot lies within a project site permitted under this rule, 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 Section 10.21.100 below;
  - (3) Not need to submit a notice of intent letter;
  - (4) Apply for a building permit in accordance with the procedures established by the city.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, § 62, 7-2-2014)

10.21.070 - General requirements for stormwater quality control.

All stormwater quality measures and erosion and sediment controls necessary to comply with this chapter must be implemented in accordance with the construction plan and sufficient to satisfy the following conditions. A project site owner shall, at least, meet the following requirements:

- (a) Sediment-laden water which otherwise would flow from the project site shall be treated by erosion and sediment control measures appropriate to minimize sedimentation.
- (b) Appropriate measures shall be implemented to minimize or eliminate wastes or unused building materials, including garbage, debris, cleaning wastes, wastewater, concrete truck washout, and other substances from being carried from a project site by run-off or wind. Identification of areas where concrete truck washout is permissible must be clearly posted at appropriate areas of the

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site. Wastes and unused building materials shall be managed and disposed of in accordance with all applicable statutes and regulations.

- (c) A stable construction site access shall be provided at all points of construction traffic ingress and egress to the project site.
- (d) Public or private roadways shall be kept cleared of accumulated sediment that is a result of run-off or tracking. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment shall be redistributed or disposed of in a manner that is in accordance with all applicable statutes and regulations.
- (e) Stormwater run-off leaving a project site must be discharged in a manner that is consistent with applicable state or federal law.
- (f) The project site owner shall post a notice near the main entrance of the project site. For linear project sites, such as a pipeline or highway, the notice must be placed in a publicly accessible location near the project field office. The notice must be maintained in a legible condition and contain the following information:
  - (1) Copy of the completed NOI letter and the NPDES permit number, where applicable;
  - (2) Name, company name, telephone number, e-mail address (if available), and address of the project site owner or a local contact person;
  - (3) Location of the construction plan if the project site does not have an on-site location to store the plan.
- (g) This permit and posting of the notice under subsection (f) above does not provide the public with any right to trespass on a project site for any reason, nor does it require that the project site owner allow members of the public access to the project site.
- (h) The stormwater pollution prevention plan shall serve as a guideline for stormwater quality, but should not be interpreted to be the only basis for implementation of stormwater quality measures for a project site. The project site owner is responsible for implementing, in accordance with this rule, all measures necessary to adequately prevent polluted stormwater run-off.
- (i) The project site owner shall inform all general contractors, construction management firms, land disturbance or excavating contractors, utility contractors, and the contractors that have primary oversight on individual building lots of the terms and conditions of this rule and the conditions and standards of the stormwater pollution prevention plan and the schedule for proposed implementation.
- (j) Phasing of construction activities shall be used, where possible, to minimize disturbance of large areas.
- (k) Appropriate measures shall be planned and installed as part of an erosion and sediment control system.
- (l) All stormwater quality measures must be designed and installed under the guidance of a trained individual.
- (m) Collected run-off leaving a project site must be either discharged directly into a well-defined, stable receiving channel or diffused and released to adjacent property without causing an erosion or pollutant problem to the adjacent property owner.
- (n) Drainage channels and swales must be designed and adequately protected so that their final gradients and resultant velocities will not cause erosion in the receiving channel or at the outlet.
- (o) Natural features, including wetlands and sinkholes, shall be protected from pollutants associated with stormwater run-off.
- (p) Unvegetated areas that are scheduled or likely to be left inactive for fifteen days or more must be temporarily or permanently stabilized with measures appropriate for the season to minimize erosion potential. Alternative measures to site stabilization are acceptable if the project site owner

or their representative can demonstrate they have implemented erosion and sediment control measures adequate to prevent sediment discharge. Vegetated areas with a density of less than seventy percent shall be restabilized using appropriate methods to minimize the erosion potential.

- (q) During the period of construction activities, all stormwater quality measures necessary to meet the requirements of this rule shall be maintained in working order.
- (r) A self-monitoring program that includes the following must be implemented:
  - (1) A trained individual shall perform a written evaluation of the project site:
    - (A) By the end of the next business day following each one-half inch of rain; and
    - (B) At a minimum of one time per week.
  - (2) The evaluation must:
    - (A) Address the maintenance of existing stormwater quality measures to ensure they are functioning properly; and
    - (B) Identify additional measures necessary to remain in compliance with all applicable laws and ordinances.
  - (3) Written evaluation reports must include:
    - (A) The name of the individual performing the evaluation;
    - (B) The date of the evaluation;
    - (C) Problems identified at the project site; and
    - (D) Details of corrective actions recommended and completed.
  - (4) All evaluation reports for the project site must be made available to the inspecting authority within forty-eight hours of a request.
- (s) Proper storage and handling of materials, such as fuels or hazardous wastes, and spill prevention and clean-up measures shall be implemented to minimize the potential for pollutants to contaminate surface or ground water or degrade soil quality.
- (t) Final stabilization of a project site is achieved when:
  - (1) All land disturbance activities have been completed and a uniform (for example, evenly distributed, without large bare areas) perennial vegetative cover with a density of seventy percent 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 its preconstruction agricultural use 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 (t)(1) above.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.080 - General requirements for individual building lots within a permitted project.

All stormwater quality measures, including erosion and sediment control, necessary to comply with this chapter must be implemented in accordance with the plan and sufficient to satisfy the following conditions.

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

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- (a) The individual lot operator, whether owning the property or acting as the agent of the property owner, shall be responsible for erosion and sediment control requirements associated with activities on individual lots.
- (b) Installation and maintenance of a stable construction site access.
- (c) Installation and maintenance of appropriate perimeter erosion and sediment control measures prior to land disturbance.
- (d) Sediment discharge and tracking from each lot must be minimized throughout the land disturbance activities on the lot until permanent stabilization has been achieved.
- (e) Clean-up of sediment that is either tracked or washed onto roads. Bulk clearing of sediment shall not include flushing the area with water. Cleared sediment must be redistributed or disposed of in a manner that is in compliance with all applicable laws and ordinances.
- (f) Adjacent lots disturbed by an individual lot operator must be repaired and stabilized with temporary or permanent surface stabilization.
- (g) For individual residential lots, final stabilization meeting the criteria in Section 10.21.070(t) above rule 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.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.090 - Monitoring of discharges.

The city shall have the authority to monitor discharges from construction sites covered under this chapter and as provided in the Bloomington Municipal Code Chapter 10.20 Illicit Stormwater Connection and Discharge.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.100 - Requirement to prevent, control, and reduce stormwater pollutants by the use of best management practices.

The city will establish requirements identifying best management practices for any activity, operation, or facility which may cause or contribute to pollution or contamination of stormwater, the storm drain system, or waters of the U.S. The owner or operator of a construction site shall provide, at their own expense, reasonable protection from accidental discharge of prohibited materials or other wastes into the municipal storm drain system or watercourses through the use of these structural and nonstructural BMPs. Further, any person responsible for a property or premise, which is, or may be, the source of an illicit discharge, may be required to implement, at said person's expense, additional structural and nonstructural BMPs to prevent the further discharge of pollutants to the municipal separate storm sewer system. Compliance with all terms and conditions of a valid NPDES permit authorizing the discharge of stormwater associated with industrial activity, to the extent practicable, shall be deemed in compliance with the provisions of this section. These BMPs shall be part of a stormwater pollution prevention plan (SWP3) to the extent necessary for compliance with requirements of the NPDES permit.

(Ord. 07-28 § 1 (part), 2007).

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(Ord. No. 12-28, § 1, 12-19-2012)

10.21.110 - Post-construction controls for new development or redevelopment.

On areas that undergo new development or redevelopment, site construction resulting in disturbance of one acre or more total land area, post-construction control measures in the form of structural and/or non-structural best management practices are required. Specifically, post-construction stormwater pollutant loading should not exceed pre-construction pollutant loading. Pre-construction refers to the site immediately before the planned land disturbance and development activities occur. Pre-construction is not intended to be interpreted as that period before any human-induced land disturbance activity has occurred. Post-construction pollutant loadings will be controlled through the six minimum control measures under the city's stormwater NPDES permit. Post-construction stormwater best management practices (BMPs) shall follow the Indiana Storm Water Quality Manual as a guidance document. The city shall have full technical and administrative approval authority on the application and design of all post-construction BMPs, conditions, definitions, and submittal requirements of construction plans and specifications and other related documents. The minimum measures are implemented to meet the terms defined in 327 IAC 15-5-6.5(a)(8) which are enumerated below.

The post-construction stormwater pollution prevention plan (SWP3). The SWP3 must include the following information:

- (a) A description of potential pollutant sources from the proposed land use that may reasonably be expected to add a significant amount of pollutants to stormwater discharges.
- (b) Location, dimensions, detailed specifications, and construction details of all post-construction stormwater quality measures.
- (c) A description of measures that will be installed to control pollutants in stormwater discharges that will occur after construction activities have been completed. Such practices include infiltration of run-off, flow reduction by use of open vegetated swales and natural depressions, buffer strip and riparian zone preservation, filter strip creation, minimization of land disturbance and surface imperviousness, maximization of open space, and stormwater retention and detention ponds.
- (d) A sequence describing when each post-construction stormwater quality measure will be installed.
- (e) Stormwater quality measures that will remove or minimize pollutants from stormwater run-off.
- (f) Stormwater quality measures that will be implemented to prevent or minimize adverse impacts to stream and riparian habitat.
- (g) A narrative description of the maintenance guidelines for all post-construction stormwater quality measures to facilitate their proper long term function. This narrative BMP description shall be made available to future parties who will assume responsibility for the operation and maintenance of the post-construction stormwater quality measures.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.120 - Enforcement.

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

- (a) Verbal warning to the construction site operator to make corrections.
- (b) 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.

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- (c) Warning of noncompliance with directions to the construction site operator that site conditions require immediate action.
- (d) Stop Work Order. If abatement of a violation and/or restoration of affected property is required, the notice shall set forth a deadline within which such remediation or restoration must be completed. Said notice shall further advise that, should the violator fail to remediate or restore within the established deadline, the work will be done by a designated governmental agency or a contractor and the expense thereof shall be charged to the violator.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.130 - Injunctive relief.

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

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.140 - Compensatory action.

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

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.150 - Civil penalty.

Any person that has violated or continues to violate this chapter shall be liable to civil penalties to the fullest extent of the law, and shall be subject to a fine of up to two thousand five hundred dollars per violation per day.

The authorized enforcement agency may recover all attorney's fees, court costs, consultant costs and other expenses associated with enforcement of this chapter, including sampling and monitoring expenses.

(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, § 63, 7-2-2014)

10.21.160 - Violations deemed a public nuisance.

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

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(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.170 - Remedies not exclusive.

The remedies listed in this chapter are not exclusive of any other remedies available under any applicable federal, state or local law and it is within the discretion of the authorized enforcement agency to seek cumulative remedies.

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(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012)

10.21.180 - Additional requirements.

Compliance with the requirements set out in this provision shall not relieve any person of the independent obligation to comply with all applicable standards and practices set out in Indiana Administrative Code, 327 IAC 15-5 and 327 IAC 15-13, regarding stormwater runoff associated with construction activity; the Indiana Storm Water Quality Manual developed by the state department of environmental management; all applicable provisions of Title 10: Wastewater of the Bloomington Municipal Code regarding stormwater runoff and of Title 20: Unified Development Ordinance; and all applicable rules, regulations, standards and specifications of the city utilities department regarding stormwater management practices.

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(Ord. 07-28 § 1 (part), 2007).

(Ord. No. 12-28, § 1, 12-19-2012; Ord. No. 14-11, § 64, 7-2-2014)

#### **CHAPTER 10.30**

#### **ENFORCEMENT PENALTIES AND APPEALS**

##### Sections:

**10.30.005 Application; Exceptions**

**10.30.010 Authority**

**10.30.020 Public Nuisance**

**10.30.030 Administrative Remedies**

**10.30.040 Judicial Enforcement Remedies.**

**10.30.050 Additional Remedy.**

**10.30.060 Remedies Nonexclusive.**

**10.30.070 Appeals**

**10.30.005 Application; Exceptions.**

This Chapter applies to all of Title 10 with the exception of Chapters 10.20 and 10.21 which have their own enforcement, penalty and appeal procedures.

**10.30.010 Authority.**

The Utilities Director is the designated enforcement official with full authority to issue permits, conduct investigations, conduct inspections, issue reports, and secure remedies, including, but not limited to, fines and injunctive relief for any violation of this title, subject to Section 10.30.005. The Utilities Director may impose any and all sanctions available for any violations at the Utilities Director's discretion.

#### **10.30.020 Public Nuisance.**

A violation of any provision of this title (subject to Section 10.30.005), wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement, is a threat to public health, safety, and welfare, and is declared a public nuisance, and may be summarily abated or restored by the City at the violator's expense, and/or a civil action to abate, enjoin, or otherwise compel the cessation of such nuisance may be taken.

#### **10.30.030 Administrative Enforcement Remedies.**

When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may implement any one or more of the following administrative enforcement remedies:

- (a) Telephone Notice. In instances where a violation has occurred and/or continues to occur, the Director may provide notice of said violation by telephonic notice to any User so violating.
- (b) Site Visits: Inspection and Sampling. The Director may conduct site visits of any User, and shall have the right to enter the premises of any User, to determine whether the User is complying with all requirements of this title (subject to Section 10.30.005) and any individual wastewater discharge permit or order issued herein. Users shall allow the Director ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
  - (1) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Director shall be permitted to enter without delay for the purpose of performing specific responsibilities.
  - (2) The Director shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
  - (3) The Director may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated per manufacturer's specifications, at a minimum, to ensure their accuracy.
  - (4) Upon written or verbal request of the Director, any temporary or permanent obstruction to safe and easy access to the facility to be visited, inspected and sampled, shall be promptly removed by the User at the User's expense and shall not be replaced.
  - (5) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this title (subject to Section 10.30.005).

- (c) Notice of Violation. When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may serve or cause to be served upon that User a written Notice of Violation clearly identifying the nature of the violation and directing the User to come into compliance within a specified period of time. The Notice of Violation may also require the User to provide a written response to the violation within a specified period of time ranging from 24 hours to 30 days.

If the User does not come into compliance within the time provided, the sewer service may be discontinued until and unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Notice of Violation also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a Notice of Violation shall not be a bar against, or a prerequisite for, taking any other action against the User.

- (d) Compliance Schedules. When the Director finds a User has violated, or continues to violate, any provision of this title (subject to 10.30.005), a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may require the User to complete a Compliance Schedule. Such a document shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as an Administrative Order pursuant to Section 10.30.030 (e) of this Title and shall be judicially enforceable. The Director may, at his discretion, issue a Compliance Schedule or allow the User to propose a Compliance Schedule for approval. Compliance Schedules issued to Industrial Users shall meet the requirements of Section 10.16.015 of this Title. A Compliance Schedule may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a Compliance Schedule relieve the User of liability for any violation, including any continuing violation. Issuance of a Compliance Schedule shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (e) Administrative Orders. When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), an individual wastewater discharge permit, or order issued hereunder, or another Pretreatment Standard or Requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Administrative Orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. An Administrative Order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does an Administrative Order relieve the User of liability for any violation, including any continuing violation. Issuance of an Administrative Order shall not be a bar against, or a prerequisite for, taking any other action against the User.
- (f) Administrative Fines. Any User that has violated, or continues to violate, any provisions of this title (subject to Section 10.30.005), wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, shall be subject to a fine of not more than two thousand five hundred dollars. Such fine shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
  - (1) Unpaid charges, fines, and penalties shall, after forty-five calendar days, be assessed an additional penalty of ten percent of the unpaid balance, and interest shall accrue thereafter at a rate of one percent per month. A lien

against the User's property may be sought for unpaid charges, fines, and penalties.

- (2) Users desiring to dispute such fines must file a written request for the Director to reconsider the fine, along with full payment of the fine amount, within thirty days of being notified of the fine. Where a request has merit, the Director may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

(g) Emergency Suspension of Discharge.

- (1) The Director may immediately suspend a User's discharge for the following reasons:

(A) Whenever actual or threatened discharge reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons;

(B) Whenever discharge presents, or may present, an endangerment to the environment; or

(C) Whenever discharge threatens to interfere with the operation of the POTW.

- (2) The Director shall notify the User that an Emergency Order for Suspension of Discharge has been issued before suspension occurs.

- (3) Any User notified of a suspension of its discharge shall immediately stop or eliminate its discharge.

- (4) If a User fails to immediately comply with an Emergency Order for Suspension of Discharge, then the Director may take such steps as deemed necessary, including immediate severance of the sewer connection.

- (5) The emergency discharge suspension shall not be lifted until further order of the Director.

- (6) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Director prior to the date of any show cause or termination hearing under Chapter 10.04 or 10.16 of this title.

(h) Termination of Discharge. The Director may terminate the discharge of any User who commits any of the following acts:

- (1) Failure to comply with any wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Refusal of access to the User's premises for the purpose of inspection monitoring or sampling; or
- (5) Failure to comply with any of the pretreatment standards in Chapter 10.12 of this title.

The User shall be notified of the proposed termination of its discharge and be offered an opportunity to show cause why termination should not occur. Exercise of this option by the Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

- (i) Revocation of Permit. The Director may revoke the permit of any industrial discharger for good cause, including, but not limited to the following reasons:
- (1) Failure to factually report the wastewater constituents and characteristics of its discharge;
  - (2) Failure to report significant changes in wastewater constituents or characteristics prior to changed discharge;
  - (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
  - (4) Falsifying self-monitoring reports and certification statements;
  - (5) Tampering with monitoring equipment;
  - (6) Failure to meet effluent limitations;
  - (7) Failure to pay fines;
  - (8) Failure to pay sewer charges;
  - (9) Failure to meet compliance schedules;
  - (10) Failure to complete a wastewater survey or the wastewater discharge permit application;
  - (11) Failure to provide advance notice of the transfer of business ownership of a permitted facility;
  - (12) Refuses reasonable access to the industrial discharger's premises by representatives of the City for the purpose of inspection or monitoring;
  - (13) Violates the conditions of any Pretreatment Standard or Requirement, its permit, or this title (subject to Section 10.30.005), or any final judicial order entered with respect thereto;
  - (14) Causes the POTW to violate its NPDES permit; or
  - (15) Failure to adhere to the terms of a special agreement.
- (j) Press Release. When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to Section 10.30.005), a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue a press release to a local paper providing information regarding any and all violations. This information may also be included in any annual wastewater performance report to IDEM.

#### **10.30.040 Judicial Enforcement Remedies.**

When the Director finds that a User has violated, or continues to violate, any provision of this title (subject to 10.30.005), a wastewater discharge permit, any order issued herein, or any other pretreatment standard or requirement, the Director may seek the following judicial enforcement remedies through the City Legal Department in a court of competent jurisdiction:

- (a) Injunctive Relief. The Director may seek issuance of a temporary or permanent injunction, as appropriate, to restrain or compel the specific performance of any wastewater discharge permit or order issued herein, or any other requirement imposed by this title (subject to Section 10.30.005) on activities of the User. The Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar to, or a prerequisite for, taking any other action against the User.
- (b) Civil Penalties.
- (1) A User who has violated, or continues to violate, any provision of this title (subject to 10.30.005), any wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty

of \$2,500.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.

- (2) The Director may recover reasonable attorney fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (3) Civil liability shall be calculated by taking into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User and any other factor as justice may require.
- (4) Filing a suit for civil penalties shall not be a bar to, or a prerequisite for, taking any other action against the User.

#### **10.30.050 Additional Remedy.**

Violations of this Title (subject to Section 10.30.005), a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, may be referred for further enforcement, investigation and/or prosecution. Possible criminal activity, such as false reporting or illegal discharges which result in personal injury or property damage, and which could have been prevented, will be referred to the Monroe County Court for prosecution.

#### **10.30.060 Remedies Nonexclusive.**

The administrative and judicial remedies provided for in this Title (subject to Section 10.30.005) are nonexclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the City's Enforcement Response Plan. However, the Director may take other action against any User when the circumstances warrant. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

#### **10.30.070 Appeals.**

- (a) Users may appeal any written order or ruling by the Director on any matter covered by this Title (subject to Section 10.30.005).
- (b) An appeal by an industrial discharger that deals with matters of performance or compliance with this title (subject to Section 10.30.005), or deals with a wastewater discharge permit issued pursuant hereto, for which enforcement activity relating to an alleged violation is the subject, shall stay all enforcement activity pending issuance of the Utilities Service Board's written findings. This rule does not apply to emergency suspensions made under Section 10.30.030(g).
- (c) All appeals shall include the following information:
  - (1) Appellant's name;
  - (2) Appellant's address;

- (3) A copy of the Director's order or ruling being appealed; and
- (4) Remedy being sought by appellant.

- (d) All appeals shall be delivered to the Utilities Service Board no later than fourteen (14) days from receipt of the written order or ruling.
- (e) The Utilities Service Board shall promptly issue its findings in writing.
- (f) Any appeal of the Utilities Service Board shall be filed with a court of competent jurisdiction no later than fourteen (14) days from receipt of the Board's written findings.



**ORDINANCE 19-06**

**AMENDING TITLE 15 OF THE BLOOMINGTON MUNICIPAL CODE  
Re: Reducing Fees for Law Enforcement Recordings and Bringing Said Fees into  
Compliance with State Law**

WHEREAS, in 2016 the State legislature passed and the Governor signed Public Law 2016-58 which altered the rules of the Access to Public Records Act governing law enforcement recordings; and

WHEREAS, in 2016, City Council Ordinance 16-14 set a flat fee of one hundred fifty dollars for all law enforcement recordings produced in response to public records requests; and

WHEREAS, Indiana's Public Access Counselor, the State officer responsible for issuing opinions related to the interpretation of the Access to Public Records Act, has clarified that a flat fee is not permissible; and

WHEREAS, the City now wishes to reduce the fees it charges for law enforcement recordings and to bring the fee structure into line with State law;

NOW THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, INDIANA, THAT:

SECTION 1: Section 15.60.080(a)(3) of the Bloomington Municipal Code is deleted in its entirety and replaced as follows:

(3) Law enforcement recording. In accordance with Indiana Code 5-14-3-8(g), the police, when furnishing a copy of a law enforcement recording, shall charge the direct cost of furnishing the law enforcement recording. However, the fee for furnishing a law enforcement recording shall not exceed one hundred fifty dollars.

SECTION 2: This Ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

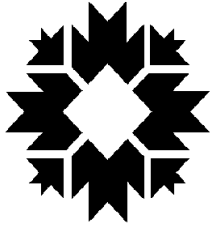
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NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

## SYNOPSIS

This revision to Title 15 lowers the fees charged to members of the public who request law enforcement recordings and brings the fee structure into line with State law. At present, Title 15 directs the Police Department to charge a flat fee of \$150 for every law enforcement recording it produces. However, the Indiana Public Access Counselor has clarified that municipalities may only charge the “direct cost” of providing a law enforcement recording, that said costs may not exceed \$150, and that a flat fee is not permitted.



**CITY OF BLOOMINGTON  
LEGAL DEPARTMENT  
MEMORANDUM**

**TO: City of Bloomington Common Council**  
**FROM: Michael Rouker, City Attorney**  
**RE: Ordinance 19-06**  
**DATE: February 1, 2019**

**MEMORANDUM**

In 2016, the State enacted Public Law 2016-58 which altered the rules in the Access to Public Records Act governing law enforcement recordings. Among other items, the new law defined a law enforcement recording as a “recording of a law enforcement activity captured by a camera or other device that is (1) provided to or used by a law enforcement officer in the scope of the officer's duties; and (2) designed to be worn by a law enforcement officer or attached to the vehicle or transportation of a law enforcement officer.” Ind. Code § 5-14-3-2. As a practical matter, this meant that Bloomington’s body cameras and vehicle dash cameras qualified as law enforcement recordings. The Council may recall that the law established new retention requirements for law enforcement recordings and created a special scheme for the release of law enforcement recordings to the public. At considerable expense, the City opted to maintain its body camera program and to invest in the server capacity required to meet the State’s new requirements.

However, the immediately relevant portion of Public Law 2016-58 addressed the fees cities may charge for the provision of law enforcement recordings. The 2016 statute authorized cities to charge:

[F]or providing a duplicate of a . . . law enforcement recording . . . a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The agency's direct cost of supplying the information in that form. However, the fee for a copy of a law enforcement recording may not exceed one hundred fifty dollars (\$150).

Thus, a city may charge its “direct cost” of supplying the law enforcement recording, capped at a total of one hundred fifty dollars. “Direct cost,” in turn, is another term defined by the Access to Public Records Act:

“Direct cost” means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

Ind. Code § 5-14-3-2. The City may charge for the initial development a computer program, the labor required to retrieve electronically stored data, and any medium through which the electronically stored data is provided. When we put all of this together, the statute permits the City to charge for (1) the labor required to retrieve the law enforcement recording and (2) the cost of the disc or flash drive on which the recording is provided, but only (3) up to one hundred fifty dollars.

As a final note, until last year there had been some question about the permissibility of a flat fee designed to recover costs associated with an initial investment in a computer program designed to assist the Police Department with its body camera program. However, last year the Public Access Counselor invalidated a flat, \$150-dollar fee imposed by the City of Evansville for requests for body camera footage. In striking down Evansville’s body camera fee, Counselor Luke Britt pointed out:

[T]he Evansville Police Department charges [\$150] as a flat fee regardless of the amount or sensitivity of footage. It should also be noted that subsection (d)(1) [which authorizes a department to charge for the “initial development of a program,”] would not apply as the software and hardware already exists and has been paid for and is not specifically developed for a particular individual request. Only the labor required for retrieving and redacting (if applicable) may be charged along with the cost of a CD or thumb drive to provide the information. It very well

may be that certain requests would rise to the sum of \$150.00 but certainly not every single piece of footage. By that logic, a single frame from a body worn camera would cost as much as a shift's worth of footage. The \$150 direct cost threshold is a cap, however, and not a recommendation.

Opinion of the Public Access Counselor 18-93, at 3-4. Following input from the Public Access Counselor and based on the cited opinion, Evansville altered its fee structure for law enforcement recordings. With Ordinance 19-06, Bloomington is following suit.

## **15.60.080 - Service and fees.**

(a) Unless directed otherwise, all fees shall be deposited in the general fund. All fees shall be deposited weekly.

(1) Accident Reports. The police department is authorized to charge a fee of eight dollars for copies of accident reports in accordance with the Indiana Code. The fee shall be deposited into the local law enforcement continuing education fund established by Indiana Code 5-2-8.

(2) Police Photographs. The police shall furnish for trial purposes to litigants photographs no larger than eight inches by ten inches for a charge of five dollars each. Larger photographs shall be furnished for ten dollars each.

(3) Law enforcement recording. ~~The police, in accordance with the laws of the State of Indiana, shall furnish a copy of a law enforcement recording for a charge of one hundred and fifty dollars per recording. In accordance with Indiana Code 5-14-3-8(g), the police, when furnishing a copy of a law enforcement recording, shall charge the direct cost of furnishing the law enforcement recording. However, the fee for furnishing a law enforcement recording shall not exceed one hundred fifty dollars.~~

(4) Clearance Letters. On request the police shall furnish clearance letters on payment of a five-dollar fee for each letter.

(5) Fingerprinting for Noncriminal Purpose. The police department shall charge a fee of fifteen dollars per card to fingerprint any city resident who requires the prints for reasons other than official business of the city. The police department shall charge a fee of twenty-five dollars per card to fingerprint any non-city resident who requires the prints for reasons other than official business of the city; additional cards for non-city residents shall be charged a fee of fifteen dollars per additional card. Requests for fingerprints for child protection shall be exempt from these fees.

(6) Certificate of Title—Vehicle Inspections. In accordance with Indiana Code 9-29-4-2 the police department shall charge a fee of five dollars to inspect a vehicle prior to the owner's application to the bureau of Motor Vehicles for a certificate of title. Revenues shall be deposited in the local law enforcement continuing education fund established by Indiana Code 5-2-8.

(7) Limited Criminal History Inspection. In accordance with Indiana Code 10-13-3-30(a)(2) the fee for processing a request for inspection of a limited criminal history shall be three dollars.

(8) Limited Criminal History Release. The fee for processing a request for release is seven dollars in accordance with Indiana Code 10-13-3-30(a)(3). Requests from the parent locator service of the Child Support Bureau of the Department of Child Services are exempt from this fee.

(9) Miscellaneous Case Reports. The fee for providing a copy of miscellaneous case report shall be five dollars. Copies of comments attached to the report shall be fifty cents per page.

(10) Handgun Applications. In accordance with Indiana Code 35-47-2-3 the fee for processing handgun applications shall be as follows:

(A) From a person applying for a four year handgun license, a ten dollar application fee, five dollars of which shall be refunded if the license is not issued;

(B) From a person applying for a lifetime handgun license who does not currently possess a valid Indiana handgun license, a fifty dollar application fee, thirty dollars of which shall be refunded if the license is not issued; and

(C) From a person applying for a lifetime handgun license who currently possesses a valid Indiana handgun license, a forty dollar application fee, thirty dollars of which shall be refunded if the license is not issued.

(D) These fees shall be deposited in the local law enforcement continuing education fund established by Indiana Code 5-2-8.

(11) Vehicle Checks for Private Towers. The police department shall charge a fee of five dollars to inspect and fill out the forms required of private towers by the Bureau of Motor Vehicles in those instances where the tow was not requested by the police department.

(b) The above fees do not apply for copies of records furnished under Indiana Code 5-14-3-5 in which case charges are limited by Indiana Code 5-14-3-8(d).

## RESOLUTION 19-03

### TO EXTEND THE DESIGNATION OF AN ECONOMIC REVITALIZATION AREA, APPROVE THE STATEMENTS OF BENEFITS, AND AUTHORIZE A PERIOD OF ABATEMENT FOR REAL AND PERSONAL PROPERTY IMPROVEMENTS

**- Re: Property at 1300 S Patterson Drive  
(Catalent Indiana, LLC, Petitioner)**

- WHEREAS, Catalent Indiana, LLC, (“Petitioner”) has filed an application for an extension of the existing designation of property at 1300 South Patterson Drive, Bloomington, Indiana, comprised of a parcel identified by the Parcel Number listed herein, as an “Economic Revitalization Area” (“ERA”) pursuant to Indiana Code 6-1.1-12.1 *et seq.*; and
- WHEREAS, the subject site is identified by the following Monroe County Parcel Number:
- 53-08-05-400-032.000-009; Alt Parcel Num: 015-43770-00; and
- WHEREAS, the Petitioner has also applied for a tax abatement and submitted separate Statement of Benefits forms to the Common Council for its personal and real property improvements to the subject site;
- WHEREAS, according to this material, the Petitioner wishes to invest at least \$85 million in personal property improvements to the subject site, to install equipment to expand Petitioner’s packaging and sterile filling capacity and support specialized device assembly at its existing facility; and
- WHEREAS, according to this material, the Petitioner wishes to invest at least \$40 million in real property improvements to the subject site; and
- WHEREAS, Petitioner commits to creating a minimum of 200 new full-time, permanent jobs as part of this investment, with an average annual salary of at least \$66,500 (not including benefits); and
- WHEREAS, as required by Indiana Code, Bloomington Municipal Code, and a Memorandum of Understanding to be executed pursuant to the City of Bloomington Tax Abatement General Standards, the Petitioner shall agree to provide information in a timely fashion each year to the County Auditor and the Common Council showing the extent to which the Petitioner has complied with the Statement of Benefits, complied with the City of Bloomington’s Living Wage Ordinance (B.M.C. 2.28), and complied with commitments specified in the Memorandum of Understanding; and
- WHEREAS, the Project is located in the Thomson-Walnut-Winslow Tax Increment Finance (“TIF”) district and Indiana Code 6-1.1-12.1-2(k) provides that when a property is located in an ERA for tax abatement purposes is also located in a TIF allocation area, the Common Council must approve the statement of benefits by resolution; and
- WHEREAS, the Economic Development Commission (“EDC”) has reviewed the Petitioner’s application and Statement of Benefits and passed Resolution 19-01 and Resolution 19-02 recommending that the Common Council extend the existing ERA designation through December 31, 2033, approve both Statement of Benefits forms, and authorize a ten-year period of abatement for the real and personal property improvements; and
- WHEREAS, Indiana Code 6-1.1-12.1-17 authorizes the Common Council to set an abatement schedule for property tax abatements; and



WHEREAS, the EDC has recommended the following personal and real property abatement schedule for the ten-year period of abatement:

Year 1	100%
Year 2	95%
Year 3	80%
Year 4	65%
Year 5	50%
Year 6	40%
Year 7	30%
Year 8	20%
Year 9	10%
Year 10	5%

WHEREAS, the Common Council has investigated the area and reviewed the Application and Statement of Benefits, which are attached and made a part hereof, and found the following:

- A. the estimate of the value of the Project is reasonable;
- B. the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the Project as proposed;
- C. the estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the Project as proposed;
- D. any other benefits about which information was requested are benefits that can be reasonably expected to result from the Project; and
- E. the totality of benefits is sufficient to justify the deduction; and

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION 1. As previously found with Resolution 15-06, the Common Council finds and determines that the designation of the property at 1300 South Patterson Drive, comprised of the one parcel identified above, which is within the Thomson-Walnut-Winslow Tax Increment Financing Area, is an “Economic Revitalization Area” as set forth in Indiana Code 6-1.1-12.1-1 *et seq.* and wishes to extend the expiration of this designation.

SECTION 2. This designation shall expire no later than December 31, 2033, unless extended by action of the Common Council and upon recommendation of the Bloomington Economic Development Commission.

SECTION 3. Petitioner’s Statements of Benefits for both real estate improvements and personal property are hereby approved; and

SECTION 4. The Common Council further finds and determines that the Petitioner, or its successors as allowed by the Memorandum of Understanding, shall be entitled to an abatement of personal and real property taxes for the Project as provided in Indiana Code 6-1.1-12.1-1 *et seq.*, as follows:

- a. For real estate improvements for the Project, a period of ten (10) years with the following deduction schedule, pursuant to Indiana Code § 6-1.1-12.1-17:

Year 1	100%
Year 2	95%
Year 3	80%
Year 4	65%
Year 5	50%
Year 6	40%
Year 7	30%
Year 8	20%
Year 9	10%
Year 10	5%

- b. For the personal property installed and placed in service for the Project, a period of ten (10) years with the following deduction schedule, pursuant to Indiana Code 6-1.1-12.1-17:

Year 1	100%
Year 2	95%
Year 3	80%
Year 4	65%
Year 5	50%
Year 6	40%
Year 7	30%
Year 8	20%
Year 9	10%
Year 10	5%

SECTION 5. In granting this designation and deductions the Common Council expressly exercises the power set forth in Indiana Code 6-1.1-12.1-2(i)(6) to impose additional, reasonable conditions on the rehabilitation or redevelopment beyond those listed in the Statement of Benefits, and authorizes the City of Bloomington to negotiate a Memorandum of Understanding with the Petitioner specifying substantial compliance terms and consequences and remedies for noncompliance. In particular, failure of the property owner to make reasonable efforts to comply with the following conditions is an additional reason for the Council to rescind this designation and deduction:

- a. the capital investment of at least \$85 million for equipment; and
- b. the capital investment of at least \$40 million in real property improvements; and
- c. the land and improvements shall be developed and used in a manner that complies with local code; and
- d. the Project shall be completed before or within twelve months of the completion dates as listed on the application; and
- e. Petitioner will comply with all compliance reporting requirements in the manner described by Indiana Code, Bloomington Municipal Code, and by the Memorandum of Understanding.

SECTION 6. The Common Council also expressly incorporates the provisions of Indiana Code 6-1.1-12.1-12 into this resolution, so that if the Petitioner ceases operations at the facility for which the deduction was granted and the Common Council finds that the Petitioner obtained the deduction by intentionally providing false information concerning its plans to continue operations at the facility, the Petitioner shall pay the amount determined under Indiana Code 6-1.1-12.1-12(e) to the county treasurer.

SECTION 7. The Common Council directs the Clerk of the City to publish a notice announcing the passage of this resolution and requesting that persons having objections or remonstrances to the ERA designation appear before the Common Council at a public hearing on March 6, 2019.

PASSED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
DAVE ROLLO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

PRESENTED by me to the Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
NICOLE BOLDEN, Clerk  
City of Bloomington

SIGNED and APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

\_\_\_\_\_  
JOHN HAMILTON, Mayor  
City of Bloomington

**SYNOPSIS**

This resolution extends the Economic Revitalization Area (ERA) designation of a parcel owned by Catalent Indiana, LLC and known as 1300 S. Patterson Drive. This designation extension was recommended by the Economic Development Commission and will enable the expansion of Catalent’s packaging, vial filling, and syringe filling capacity, creating additional jobs within the City. The resolution also authorizes a ten-year period of abatement for certain personal and real property improvements at 1300 S. Patterson Drive and sets the same abatement schedule for both real and personal property. The resolution also declares the intent of the Council to hold a public hearing on March 6, 2019 to hear public comment on the ERA designation.



## MEMORANDUM

**To:** Common Council  
**cc:** John Hamilton, Mayor; Mick Reneissen, Deputy Mayor; Alex Crowley, Director, Economic and Sustainable Development; Dan Sherman, Common Council Attorney; Stacy Jane Rhoads, Common Council Deputy Attorney; Larry Allen, Assistant City Attorney  
**From:** Brian Payne, Assistant Director, Economic & Sustainable Development  
**Date:** January 28, 2019  
**Re:** EDC Resolution 19-02: Real Property Tax Abatement Application  
Catalent Indiana, LLC - 1300 S. Patterson Drive  
(Monroe County Parcel ID Number: 53-08-05-400-032.000-009)

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### Project Background

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In 1997, Thomson Consumer Electronics announced it would close its facility on the near west side of Bloomington and lay off 1,200 employees. In addition to the income loss associated with the 1,200 jobs, the City experienced a decline of over \$1 million in property tax revenues and \$350,000 in County Option Income Tax (COIT) revenues. A coordinated community effort was initiated to redevelop the site and several economic tools, including a Tax Increment Finance District and the state's first Community Revitalization Enhancement District, were put into place to encourage new investment. Tools from the Bloomington Urban Enterprise Zone were also leveraged. A neighborhood strategies plan and a PUD were completed.

In 2004, Cook Pharmica LLC, a start-up contract pharmaceutical manufacturing company owned by Cook Group, agreed to open its facility at the former Thomson site at 1300 S. Patterson St. Cook Pharmica aimed to take promising drug formulae from small or undercapitalized companies, developing manufacturing procedures, obtaining government approvals, and readying them for the market. Initially, Cook Pharmica anticipated investing \$45 million in capital improvements, with the stated goal of creating 200 jobs. Cook Pharmica received two tax abatements – for personal and real property investments, respectively – for their initial expansion.

In 2008, the company surpassed investment benchmarks and exceeded its goal to create 200 jobs, and further invested in expansion that year. The \$84 million expansion in 2008 involved a new and distinct business line – formulate, fill and finish (package) vials and syringes – rather than an expansion of existing operations. As part of this expansion, Cook Pharmica received an agreement entitling them to reimbursement from Community Revitalization Enhancement District (CRED) funds.

In 2015, Cook Pharmica proposed an additional expansion of the vial and syringe filling business. The company sought and received a personal property tax abatement to support the new equipment investment, but no real property tax relief for rehabilitation costs to the building. They also sought

reimbursement from CRED revenues. The expansion promised to create 70 new jobs and \$3.2 million in new salaries. In April 2018, Cook Pharmica submitted materials showing they had met these benchmarks, and received an installment payment from the CRED's Industrial Development Fund.

In October 2017, Catalent, Inc., a New Jersey corporation, announced that they had purchased Cook Pharmica for \$950 million. Catalent further announced that they sought to retain Cook Pharmica's workforce and operations in Bloomington. Since its incorporation in 2003, the Catalent/Cook Pharmica organization has invested more than \$65 million in new manufacturing and R&D equipment, and more than \$112 million in real property improvements. As of today, 839 employees work at Catalent Indiana, LLC's (Catalent) Bloomington facility.

### **History of Local incentives to Cook Pharmica, LLC**

Since its creation in 2003, Cook Pharmica, LLC received several economic incentives from the City of Bloomington prior to its sale to Catalent in 2017. Cook Pharmica has previously received three types of local incentives from the City of Bloomington: real and personal property tax abatements, Community Revitalization Enhancement District (CRED) revenues, and an Enterprise Zone Investment Deduction (EZID) through the Bloomington Urban Enterprise Zone. Each incentive was approved by the Common Council in eight separate resolutions.

Cook Pharmica, LLC also received incentives from the State of Indiana and Monroe County, in the form of Economic Development for a Growing Economy (EDGE) tax credits and contributions to public infrastructure.

### **Enterprise Zone Investment Deduction (EZID)**

Since 1992, Bloomington has had an Urban Enterprise Zone as authorized under Indiana Code 5-28-15. Businesses located within the zone are eligible to receive tax deductions (EZIDs) on their investments in real or personal property within the Zone. An EZID offers an automatic 100% abatement on increases in assessed property value over 10 years. When also in a TIF, the EZID must be approved by the Common Council. Participation fees totaling 30% of the realized tax savings are paid by the taxpayer annually to the Bloomington Urban Enterprise Association (20%), the City's Redevelopment Commission (9%) and the Indiana Economic Development Corporation (1%), which results essentially in a 70% net savings to the zone business.

In May 2010, Common Council approved Resolution 10-06, an EZID for Cook Pharmica on further real property improvements made at 1300 S. Patterson Drive. According to EZ-2 filings associated with that EZID, the total increase in Assessed Real Property Value subject to the EZID is \$47,800,000. Over the 10-year lifespan of the EZID the total value abated by EZID, assuming a 2% average tax rate, will be \$9,560,000. Subtracting their 30% fee to the Bloomington Urban Enterprise Association, Redevelopment Commission, and State, the net EZID value to Cook Pharmica is approximately \$6,692,000.

### **Community Revitalization Enhancement District (CRED)**

In a CRED, the portion of County Option Income Tax and Indiana retail, use and income taxes generated within the district, that exceeds a base amount, is deposited by the State of Indiana into the City's Industrial Development Fund (IDF) for use by the City to support redevelopment in the District. If it were not for the CRED, the vast majority of these funds would not be available to the City of Bloomington, but would instead be State revenue. The existence of the CRED enables the City of Bloomington to receive these funds back from the State for economic development purposes.

In four different resolutions (05-03; 08-11; 08-12; 15-08), Common Council approved the reimbursement of CRED revenues generated from income, retail and uses taxes levied specifically on Cook Pharmica for various site improvements, stormwater infrastructure, syringe line improvements, and other infrastructure. Essentially, Cook Pharmica made investments that generated revenue to the CRED, and was permitted to seek reimbursement out of those revenues to reimburse their expenses for up to 75% of CRED revenues they contributed. In total, Cook Pharmica received \$5,120,000 in reimbursements from the CRED between 2005 and 2018.

### **Tax Abatements**

Cook Pharmica received a real property tax abatement in 2004 for renovations to the former Thomson facility at 1300 S. Patterson Drive, and personal property tax abatements in 2004 (Council Resolutions 04-08 and 04-09) and again in 2015 (Council resolution 15-06) for the purchase of advanced manufacturing equipment. Notably, Indiana state law changed in the interim, allowing localities total flexibility with regard to the abatement term (within a range of 1-10 years) and abatement rate (0-100%). In 2004, a finite number of abatement schedule options existed, including those utilized by the City of Cook Pharmica in resolutions 04-08 and 04-09.

Tax Abatement calculations at the time of their consideration by Common Council are provided below in further detail, based on previous staff memoranda to Council. Importantly, the tables below reflect the estimated values presented to Council at the time each abatement was approved, not a retrospective valuation of their actual value.

### **2004 Real Property Abatement**

Cook Pharmica, LLC – 1300 S. Patterson Drive				
Using 2003 Payable 2004 Tax Rate and AV Estimates				
All figures reflect <u>estimates</u> in at signing of MOA				
<b>Estimated Project Cost:</b>		\$19,000,000		
<b>2003 payable 2004 tax rate:</b>		%1.9445		
<b>Abatement Schedule</b>	<b>Abatement rate</b>	<b>Abatement</b>	<b>Abated Taxes</b>	<b>Payable Taxes</b>
Year 1	100	19,000,000	\$369,455	\$0
Year 2	95	18,050,000	\$350,982	\$18,473

Year 3	80	15,200,000	\$295,564	\$73,891
Year 4	65	12,350,000	\$240,146	\$129,309
Year 5	50	9,500,000	\$184,728	\$184,728
Year 6	40	7600000	\$147,782	\$221,673
Year 7	30	5700000	\$110,837	\$258,619
Year 8	20	3800000	\$73,891	\$295,564
Year 9	10	1900000	\$36,946	\$332,510
Year 10	5	950000	\$18,473	\$350,982
<b>Total Value</b>			<b>\$1,828,802</b>	<b>\$1,865,748</b>

#### 2004 Personal Property Abatement

Cook Pharmica, LLC – 1300 S. Patterson Drive	
Using 2003 Payable 2004 Tax Rate and AV Estimates	
All figures reflect <u>estimates</u> in at signing of MOA	
<b>Estimated Project Cost:</b>	\$17,200,000
<b>2003 payable 2004 tax rate:</b>	%1.9445

<b>Abatement Schedule</b>	<b>Abatement Rate</b>	<b>Abated Value</b>	<b>Abated Taxes</b>	<b>Payable Taxes</b>
Year 1	100	6,880,000	\$159,444	\$0
Year 2	90	8,668,800	\$200,899	\$22,322
Year 3	80	5,779,200	\$133,933	\$33,483
Year 4	70	3,852,800	\$89,289	\$38,267
Year 5	60	3,096,000	\$71,750	\$47,833
Year 6	50	2,580,000	\$59,792	\$59,792
Year 7	40	2,064,000	\$47,833	\$71,750
Year 8	30	1,548,000	\$35,875	\$83,708
Year 9	20	1,032,000	\$23,917	\$95,666
Year 10	10	516,000	\$11,958	\$107,625
<b>Total Value</b>			<b>\$834,689</b>	<b>\$560,446</b>

#### 2015 Personal Property Abatement

Cook Pharmica, LLC – 1300 S. Patterson Drive
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Using 2003 Payable 2004 Tax Rate and AV Estimates  
 All figures reflect estimates in at signing of MOA / 2.0754% 2015 tax rate

**Estimated Personal Property Cost:** \$25,000,000

<b>Abatement Schedule</b>	<b>True Tax Value / Abatement rate</b>	<b>Abated Taxes</b>	<b>Payable Taxes</b>
Year 1	40 / 70	\$145,278	\$0
Year 2	56 / 70	\$203,389	\$62,262
Year 3	42 / 70	\$152,542	\$87,167
Year 4	32 / 70	\$116,222	\$65,375
Year 5	30 / 70	\$108,959	\$49,810
Year 6	30 / 70	\$108,959	\$46,697
Year 7	30 / 70	\$108,959	\$46,697
Year 8	30 / 70	\$108,959	\$46,697
Year 9	30 / 70	\$108,959	\$46,697
Year 10	30 / 70	\$108,959	\$46,697
<b>Total Value</b>		<b>\$1,271,183</b>	<b>\$544,793</b>

**Cook Pharmica Tax Abatement Totals**

<b>Abatement Agreement</b>	<b>Estimated Capital Investment</b>	<b>Actual Capital Investment</b>	<b>Est. New Jobs</b>	<b>Actual New Jobs</b>	<b>Est. New Salaries (\$)</b>	<b>Actual New Salaries (\$)</b>
Res 04-08 (RP)	19,000,000	112,000,000	Combined w/ PP (200)			
Res 04-09 (PP)	17,200,000	37,996,461	200		9,455,920	
Res 15-06 (PP)	25,000,000	31,654,044	32		3,200,000	
Cumulative (April 2018)				716		50,163,462
<b>Total</b>	<b>61,200,000</b>	<b>181,650,505</b>	<b>232</b>	<b>716</b>	<b>12,655,920</b>	<b>50,163,462</b>

### **Project Overview**

Catalent aims to expand their current operations in Bloomington in two phases. Phase 1 consists of building out 15,000 square feet of ISO 9000 manufacturing space to expand the facility's packaging capacity and add new capabilities to support specialized device assembly for biological products by 2020. Phase 2 will expand the facility's drug product sterile filling capacity by 79,000 square feet by 2022. In all, Catalent expects to invest more than \$125,000,000 in capital improvements - \$40,000,000 in real property and \$85,000,000 in personal property - beginning in June 2019 and completing construction in November 2021.

These enhancements will nearly double the Bloomington facility's filling capacity, expand its packaging capabilities, and add new device assembly capabilities. To utilize this new production capacity, Catalent plans to hire an additional 200 full-time employees, at an average salary of \$66,650 plus benefits, for an increase in total annual payroll of \$13,312,000.

The current assessed value of the real property at the Catalent Bloomington facility is \$43,828,800, and the personal property is currently assessed at \$55,376,790. Catalent estimates this project will increase the assessed value of the personal property by \$34,000,000, and the real property by \$10,000,000, for a total estimated increase in assessed value of \$44,000,000 as a result of the project.

Catalent has applied for a traditional descending tax abatement structure which averages a 50% abatement rate over the ten-year life of the abatement. Preferring the traditional Indiana state abatement table, Catalent has applied for tax abatements on their real and personal property improvements at the following declining rate: 100-95-80-65-50-40-30-20-10-5. Based on their property improvement estimates, the present value of the proposed real property abatement is \$1,050,390 and the present value of the proposed personal property abatement is \$1,510,780, for a total present value of \$2,561,170.

The cost of the incentive per permanent FT job created would be \$12,805/job; and \$0.19 in incentive per \$1.00 of annual wages created.

#### **Pending Reviews Following EDC**

Common Council review of Tax Abatement  
Plan Commission review of final site design

February 6, 13, and March 6  
tbd

#### **Criteria: City of Bloomington Tax Abatement General Standards**

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##### **Capital Investment as an enhancement to the tax base**

Total estimated project capital investment is projected to be \$126,000,000. Based on the total estimated project assessed value, the new tax liability (excluding the abatement) is projected to grow \$212,200 annually on average for the facility's real property, and an average of \$252,518 in personal property. Over the ten-year life of the abatement, the project will increase Catalent's tax liability by an estimated \$4,647,181. If the abatements are approved, that liability would fall to \$2,196,397. Both calculations are present value estimates, based on 2018 Monroe County tax rates.

##### **Evaluative Criteria**

Besides capital investment and full-time job creation, the City's Tax Abatement General Standards describe additional criteria that may be considered to evaluate whether a project will make "a significant positive contribution to overall economic vitality" of the city. Four categories are outlined as examples, and the petitioner may provide supportive evidence for how their project addresses any or all of the evaluative criteria, and may also offer a description of the project's contributions outside of these four categories as the petitioner deems appropriate. A summary of the application's category responses is below. Please also refer to the petitioner's application, which has been included in your packet.

***Quality of Life/Environmental Sustainability:*** This project will incorporate green-friendly building materials and aims to achieve LEED Silver certification. Catalent estimates that the project will decrease the production facility's energy consumption efficiency by 15%.

***Community Character:*** The project takes an otherwise undesirable site adjacent to a flood plain and develops an attractive building expansion.

#### **Criteria: Indiana Code**

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##### **Establishing an Economic Revitalization Area and a Term of Abatement**

With the EDC's favorable recommendation, the City Council must review the abatement. In order for a property to be eligible for tax abatement, it must be designated an Economic Revitalization Area, or must be within an area already designated as an Economic Revitalization Area by the Common Council.

An Economic Revitalization Area or “ERA” is an area that has obstacles to “normal development and occupancy because of a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors.” (Indiana Code § 6-1.1-12.1-1)

In this case, both the EDC and the Common Council, in Resolution 15-06, have already designated this parcel an ERA through December 31, 2028. The EDC extended that designation through December 31, 2033. In order to accommodate the proposed abatement schedule following a 2022 completion date, Council must only extend the existing ERA designation for another five years, through December 31, 2033.

For reference, the findings required for designating an Economic Revitalization Area and authorizing a tax abatement term are:

- The estimate of the value of the redevelopment or rehabilitation is reasonable for the projects of that nature.
- The estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- The estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- The totality of the benefits is sufficient to justify the deduction.

City staff finds the estimates and benefits described in the Application and on the Statement of Benefits form are reasonable and that the benefits, as outlined in the application packet and this memo, are sufficient to justify a tax abatement of the recommended term and schedule. Staff recommends extending the existing ERA designation an additional five years.

### **Rationale for Tax Abatement Recommendation**

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Most important to the recommendation, City staff and administration believe that it is in the interest of the community to support this development given its substantial impact on wage growth and infusion of permanent full-time jobs. According to the last decade of census data, real wages and real gross domestic product have both grown very slowly in the Bloomington MSA. At the same time, rental housing costs have increased approximately 20% since 2010, and single-family home prices have risen 15% in the last two years.

Bloomington sorely needs permanent, high-wage jobs to jumpstart the local economy. This project would contribute 200 high-wage jobs, averaging an annual salary more than 40% higher than the area median household income, plus benefits. In addition, even with the proposed abatements, this project would generate more than \$2,086,000 in new net tax revenue over the ten-year term.

In addition, this organization, in its previous form as Cook Pharmica, has a sterling record of meeting and surpassing investment and job creation commitments made as part of previous tax abatement agreements. When Cook Pharmica initially applied for real and personal property abatements in 2004, they anticipated investing \$45 million and committed to creating 200 jobs, with an annual payroll

commitment of \$9.5 million. Cook Pharmica's actual investments paid much greater dividends to the community. In the 2010 compliance filing, actual property investments from the project exceeded \$150 million, and jobs created stood at 351, with annual payroll of \$21,173,488. As of today, the company has invested more than \$180 million in the Patterson Drive facility, and employs 839 people.

Further, Catalent has major facilities in both Somerset, NJ and Madison, WI, and has options to make these investments elsewhere in its global footprint. Catalent has been a willing partner in their short history in Bloomington, but this project is an opportunity to shape that partnership for decades to come. We recommend supporting Catalent as it doubles down on its investment in Bloomington. It diversifies Bloomington's economy to have another global life sciences player in town to strengthen the sector, and adding a strong public company stabilizes Bloomington's labor market. Finally, the best way to ensure that Catalent exceeds their lofty goals, is to help Catalent execute the launch phase - the abatement in the first few years will be a crucial factor in ensuring early success.

A review of similar tax abatements reveals that the value of Catalent's commitments per incentive dollar surpasses Cook Pharmica's commitments at the time abatements were granted. Most recently, in 2015, the EDC and Common Council approved a 70% tax abatement for Cook Pharmica's \$25,000,000 expansion, in which they committed to hiring 70 new employees at a total of \$3,200,000 in annual payroll. This abatement rate is 20% lower for nearly three times the jobs commitment (albeit at a lower average salary).

City administration and staff believe the project appropriately balances the community's multiple interests in maximizing public funds, managing the Thomson TIF, and creating economic opportunity. Catalent is committed to working closely with City planning staff to create a design that fits largely within the physical constraints of the site, and the intended use falls within the existing PUD.

Finally, and as noted above, the City recommends extension of the existing designation of the site as an Economic Revitalization Area. Specifically, the site's previous decades of vacancy and proximity to a flood plain have limited its opportunities for development, and both EDC and Common Council found that the property has obstacles to "normal development and occupancy because of lack of development..." in 2015.

With the consideration of all factors outlined above, and especially recognizing the unique opportunity this development presents to substantially increase the availability of permanent, high-wage jobs in Bloomington, the City supports the petitioner's application for tax abatement with the following terms: **10-Year Real Estate (RE) Property Tax Abatement and Personal Property (PP), at an average of 50% for 10 years.** The total present value of both abatements based on 2018 tax rates is \$2,561,170.

Should Council approve the tax abatement, the City will negotiate and execute the required Memorandum of Agreement with Catalent. This agreement will include claw back provisions (remedies and consequences for noncompliance) related to the benefits stated in the Application and Statement of Benefits (SB-1) forms, and will define other substantial compliance terms through the duration of the tax abatement periods.

Attachments:

- Petitioner's City of Bloomington Tax Abatement Application
- Petitioner's Statement of Benefits Form, Real Estate Improvements (SB-1)

## Appendix 1: Tax Abatement Schedule

### Tax Abatement Calculations for Real Property Improvement

Catalent, Inc. -- 1300 S. Patterson Drive

Using 2018 Payable 2019 Tax Rate and Project Estimates

**Project**

**Cost:** \$40,000,000

**Capital Improvements:** \$10,000,000

<u>Year</u>	<u>Percent</u>	<u>Proj. Tax Liability</u>	<u>Value Abated</u>	<u>Taxes Payable</u>
1	100%	\$212,200	\$212,200	\$0
2	95%	\$212,200	\$201,590	\$10,610
3	80%	\$212,200	\$169,760	\$42,440
4	65%	\$212,200	\$137,930	\$74,270
5	50%	\$212,200	\$106,100	\$106,100
6	40%	\$212,200	\$84,880	\$127,320
7	30%	\$212,200	\$63,660	\$148,540
8	20%	\$212,200	\$42,440	\$169,760
9	10%	\$212,200	\$21,220	\$190,980
10	5%	\$212,200	\$10,610	\$201,590
		<b>\$2,122,000</b>	<b>\$1,050,390</b>	<b>\$1,071,610</b>
Average (10-years)		\$212,200	\$105,039	\$107,161
<b>Total Present value:</b>		<b>\$1,050,390</b>		

Note: Year 10 projected tax liability  
estimated based on current tax rates

### Tax Abatement Calculations for Personal Property Improvement

Catalent, Inc. -- 1300 S. Patterson Drive

Using 2018 Payable 2019 Tax Rate and Project Estimates

**Project**

**Cost:** \$85,000,000

**Capital Improvements:** \$34,000,000

<u>Year</u>	<u>Abatement Rate</u>	<u>True Tax Value*</u>	<u>Proj. Tax Liability</u>	<u>Value Abated</u>	<u>Taxes Payable</u>
1	100%	40%	\$288,592	\$288,592	\$0
2	95%	56%	\$404,029	\$383,828	\$20,201
3	80%	42%	\$303,022	\$242,418	\$60,604
4	65%	32%	\$230,874	\$150,068	\$80,806
5	50%	30%	\$216,444	\$108,222	\$108,222
6	40%	30%	\$216,444	\$86,578	\$129,866
7	30%	30%	\$216,444	\$64,933	\$151,511
8	20%	30%	\$216,444	\$43,289	\$173,155
9	10%	30%	\$216,444	\$21,644	\$194,800
10	5%	30%	\$216,444	\$10,822	\$205,622
			<b>\$2,525,181</b>	<b>\$1,400,394</b>	<b>\$1,124,787</b>
Average (10-years)			\$252,181	\$140,039	\$112,478
<b>Total Present value: \$1,400,394</b>					

\*True Tax Value is the state-mandated depreciation schedule for business tangible personal property that qualifies as special equipment.

### Appendix 2: Site Images

Site Location: Exhibit A





## Application for Designation as an Economic Revitalization Area (ERA): Real Property Tax Abatement

**City of Bloomington, Indiana**  
**Department of Economic and Sustainable Development**  
**401 N. Morton St., PO Box 100, Bloomington, Indiana 47402-0100**  
**812.349.3418**

### INSTRUCTIONS

1. State law and City of Bloomington policy require that the designation application and statement of benefits form (SB-1) be submitted **prior to the initiation of the project** (i.e., prior to filing for building permits required to initiate construction). If the project requires a rezoning, variance, or approval petition of any kind the petitioner must file prior to submission of the tax abatement application, and must be approved prior to a final hearing on the tax abatement request.
2. All questions must be answered as completely as possible and must be verified with a signature on the completed Statement of Benefits Form (SB-1) and last page of this application. Incomplete or unsigned applications will not be accepted as official filings. If attaching additional pages, please label responses with corresponding Section numbers.
3. Return completed Application and **\$100.00 non-refundable Application Fee** (payable to the **City of Bloomington**) to City of Bloomington Department of Economic & Sustainable Development, PO Box 100, 401 N Morton Street, Suite 130, Bloomington, IN 47402-0100 ([economicvitality@bloomington.in.gov](mailto:economicvitality@bloomington.in.gov)).

Section 1 – Applicant Information		
Name of Company for which ERA Designation is being requested <b>Catalent Indiana, LLC</b>		
Primary Contact Information (for questions concerning this application and the Project)		
Name <b>Alexander Haig</b>	Job Title <b>Senior Director, Engineering</b>	
Phone <b>(812) 340-5147 ext.</b>	Email <b>alexander.haig@catalent.com</b>	
Address (street and/or PO, city, ZIP)	<b>1300 South Patterson Drive Bloomington 47403</b>	
Compliance Contact Information (person responsible for completion and timely submittal of mandatory annual compliance forms if designation is granted)		
Name <b>Alexander Haig</b>	Job Title <b>Senior Director, Engineering</b>	
Phone <b>(812) 340-5147 ext.</b>	Email <b>alexander.haig@catalent.com</b>	
Address (street and/or PO, city, ZIP)	<b>1300 South Patterson Drive Bloomington 47403</b>	
Section 2 – Real Property Location and Description		
Monroe County Tax Parcel ID Number(s) <b>53-08-05-400-032.000-009</b>	Township <b>PERRY</b>	
Street Address <b>1300 South Patterson Drive</b>	ZIP <b>47403-</b>	
Current Zoning <b>Research &amp; Development Facility</b>	Current Use(s) of Property <b>Pharmaceutical Development, Manufacturing, and Fill/Finish</b>	
Estimated Market Value of Property <b>\$43,828,800</b>		
Property or Building(s) Listed as Historic on the City of Bloomington <a href="#">Historical Survey</a> ? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If yes, check one: <input type="checkbox"/> Outstanding <input type="checkbox"/> Notable <input type="checkbox"/> Contributing	Age of Building(s), if applicable <b>56 years</b>	
Describe any other national or local historical significance or designation, if applicable <b>N/A</b>		
Please list all owners of the property. <b>Catalent Indiana, LLC</b>		
<b>Attach</b> additional sheets as necessary to include all relevant property records. The City of Bloomington may require a copy of the property deed.		

**Section 3 – Criteria for Economic Revitalization Area ("ERA") or Economic Development Target Area ("EDTA") Designation**

Describe how the project property and surrounding area have become undesirable for normal development and occupancy.

**Prior to Cook Pharmica purchasing the RCA/Thomson Consumer Electronics site it sat vacant for quite some time without care or maintenance. A portion of the site lies within a designated flood plain as well. There is also the possibility of hazardous materials left behind from the previous manufacturing activities.**

**Section 4 – Company Profile**

Does your company currently operate at this location? ☒ Yes ☐ No

If yes, how long has your company been at this location? **14 years**

Will this property be your company's headquarters location? ☐ Yes ☒ No

If no, where is/will be your company's HQ? **Somerset, New Jersey**

Company is a: ☒ LLC ☐ LLP ☐ LP ☐ Corporation ☐ S. Corporation ☐ Nonprofit Corporation  
☐ Mutual Benefit Corporation ☐ Other-Please describe:

Provide a brief description of your company history, products and services.

**Cook Pharmica (now Catalent Indiana, LLC) was founded in 2004, purchased the campus (formerly owned by RCA/Thomson Consumer Electronics), and began renovation of the facility into a world-class biopharmaceutical manufacturing operation. The 50-acre campus with two buildings was once the largest TV assembly plant in the world**

Please list all persons and/or entities with ownership interests in the company. **Catalent Pharma Solutions**

**Current/Retained Jobs and Wages** (include only current permanent jobs, and exclude benefits and overtime from wage values)

Number of part-time employees	<b>0</b>	Median part-time hourly wage	<b>N/A</b>
Number of full-time employees	<b>839</b>	Average part-time hourly wage	<b>N/A</b>
TOTAL current employees (permanent jobs)	<b>839</b>	Median full-time hourly wage	<b>\$24.52</b>
		Average full-time hourly wage	<b>\$28.33</b>
What is the lowest hourly wage in the company? (inc. PT, FT, other)	<b>\$14.42</b>		
What is the median hourly wage in the company (inc. PT, FT, other)	<b>\$24.52</b>	TOTAL Annual Payroll (current/retained)	<b>\$43,926,000</b>

**New Jobs and Wages As Result of the Proposed Project** (include only new permanent jobs, and exclude benefits and overtime from wage values)

Number of part-time employees	<b>0</b>	Lowest starting part-time wage	<b>N/A</b>
Number of full-time employees	<b>200</b>	Lowest starting full-time wage	<b>\$18.42</b>
TOTAL NEW employees (new permanent jobs)	<b>200</b>	TOTAL NEW Annual Payroll (new jobs only)	<b>\$13,312,000</b>

Describe your company's benefit programs and include the approximate value of benefits for existing and new employees on a per hour basis (e.g., benefits are valued at an additional \$3.00 per hour, etc.)

**Employees receive the following benefits: Health insurance, dental insurance, vision insurance, life insurance, disability insurance, 401(k) with employer match, and an educational assistance program. The comprehensive benefits package provided to employees is valued at approximately \$10.00 per hour.**

**Market for Goods and Services; Local Sourcing**

To the extent possible, please estimate the relative percentages of your company's reach (via your products or services) into following markets:	<b>20%</b>	Inside Monroe County, Indiana
	<b>20%</b>	Outside Monroe County, but inside Indiana
	<b>55%</b>	Outside of Indiana
	<b>5%</b>	Outside of the United States
	<b>100%</b>	

If applicable, list the name and location (City, State) of your five largest vendors or suppliers.

1. Cassady Electric Company (Ellettsville, IN)
2. Harrell Fish and Associates (Bloomington, IN)
3. Columbus Container (Columbus, IN)
4. Ompi (France)
5. Becton, Dickinson and Company (Franklin Lakes, NJ)

#### Section 5 – Proposed Improvements (the "Project")

Describe all real estate improvements for which tax abatement on the property is being sought.

**The project is comprised of two phases; Phase 1 consists of building out a 15,000 sq.ft. of ISO 9 manufacturing space and is aimed to expand Catalent, Bloomington packaging capacity and add new capabilities to support specialized device assembly for biological products produced within the site by 2020. Phase 2 is to expand Catalent, Bloomington drug product sterile filling capacity by 2022 to support. The fill/finish capacity at the Bloomington site will be expanded by 79,000 sq. ft., with both GMP and non-GMP capabilities.**

Estimated Total Project Cost (Capital Improvements only)	<b>\$126,000,000.00</b>	Has Bloomington Planning approval been obtained for the Project?  If yes, Case Number:	<input type="checkbox"/> Yes
Estimated Construction Start Date (month-year)	<b>June 2019</b>		<input checked="" type="checkbox"/> No
Estimated Completion Date (month-year)	<b>November 2021</b>		
Will the Project require any City expenditures (for public infrastructure, etc.)?			<input type="checkbox"/> Yes
If yes, please describe			<input checked="" type="checkbox"/> No

Proposed Use(s) of the property after Project completion. Describe uses for entire Project space, including any uses not of the applicant company (e.g., if portions of space are intended to be leased to other entities, provide details).

**Phase 1 is aimed to expand Catalent, Bloomington packaging capacity and add new capabilities to support specialized device assembly for biological products produced within the site by 2020. This will be accomplished by the purchase and installation of a Flexible top load cartoning machine, an automated Auto-injector assembly machine, and Syringe assembly equipment. A new Quality Control laboratory will also be constructed to support the expanded production.**

**Phase 2 is to expand Catalent, Bloomington drug product sterile filling capacity by 2022 to support commercial launches and clinical development. A high-speed flexible vial line, utilizing both ready-to-use (RTU) components and bulk filling, will be installed along with a high-speed flexible syringe/cartridge line, and a fully automated vial inspection machine. This investment will nearly double the site capacity with over 460 additional filling days.**

Describe the impact on your business if the proposed Project is **not** undertaken (e.g. loss of jobs, contract cancellations, loss of production, change in location, etc.).

**If the project is not undertaken it will mean the loss of growth for the site and inability to provide additional job opportunities.**

**Attach** renderings, site plans, drawings, etc., of the Project. **See Appendix**

**Section 6 – City of Bloomington Evaluative Criteria**

Describe how the Project will make a significant positive contribution to the community's overall economic vitality in at least one of the following areas which apply. Feel free to add details to any and all other categories which apply. See "General Standards" for explanations and examples.

☒ Quality of Life, Environmental Stewardship, and/or Sustainability

**The projects will employ green building standards according to Leadership in Energy and Environmental Design (LEED). Through this effort we are also aiming to reduce overall energy usage by 15%.**

☐ Affordable Housing

☐ Community Service

☐ Community Character

If applicable, describe any further (not yet described above) beneficial *and detrimental* impact to the community's economic, social or environmental wellbeing, resulting from the Project.

***Attach*** any additional information or documentation you feel to be pertinent to the City's decision to authorize this tax abatement.



**Section 7 – Certification:**

The undersigned hereby certify the following:

**[Initials]**AH

- The statements in the foregoing application for tax abatement are true and complete.

AH

- The person(s) executing this application for tax abatement have been duly authorized by the business entity for which this application is being filed to execute and file this application, and all required approvals by the appropriate board or governing body of the business entity have been received.

AH

- The individual(s) or business entity that is applying for Economic Revitalization Area (ERA) or Economic Development Target Area (EDTA) designation or approval of a Statement of Benefits is not in arrears on any payments, fees, charges, fines or penalties owed to the City of Bloomington, Indiana, including but not limited to, City of Bloomington Utilities, Bloomington Transit, and any other City departments, boards, commissions or agencies.

AH

- I/we understand that if the above improvements are not commenced (defined as obtaining a building permit and actual start of construction) within 12 months of the date of the designation of the above area as an ERA, EDTA or of approval of a Statement of Benefits for the above area, whichever occurs later, the Bloomington Common Council shall have the right to void such designation.

AH

- I/we understand that all companies requesting ERA and/or EDTA designation will be required to execute a Memorandum of Agreement (MOA) with the City. The MOA shall contain the capital investment levels, job creation and/or retention levels and hourly wage rates and other benefits that the applicant has committed to the City in order to receive consideration for the designation. The MOA shall also contain information relative to what the City and applicant have agreed upon as "substantial compliance" levels for capital investment, job creation and/or retention and wage rates and/or salaries associated with the project.

Additionally, the MOA shall indicate that the City, by and through the Economic Development Commission and the City of Bloomington Common Council, reserves the right to terminate a designation and the associated tax abatement deductions if it determines that the applicant has not made reasonable efforts to substantially comply with all of the commitments, and the applicant's failure to substantially comply with the commitments was not due to factors beyond its control.

If the City terminates the designation and associated tax abatement deductions, it may require the applicant to repay the City all or a portion of the tax abatement savings received through the date of such termination. Additional details relative to the repayment of tax abatement savings shall be contained in the Memorandum of Agreement.

AH

- I/we understand that if this request for property tax abatement is granted that I/we will be required to submit mandatory annual compliance forms as prescribed by State law and local policy. I/we also acknowledge that failure to do so or failure to achieve investment, job creation, retention and salary levels contained in the final resolution and MOA may result in a loss of tax abatement deductions and the repayment of tax abatement savings received.

AH

- I/we understand that beneficiaries of a city tax abatement are subject to the City of Bloomington's Living Wage Ordinance ([BMC 2.28](#)), and therefore I/we must certify the entity's Living Wage compliance annually during the tax abatement term, if this abatement request is approved.

**OWNER(S) OR AUTHORIZED REPRESENTATIVE(S)**

SIGNATURE (Print Name Below)

TITLE

DATE

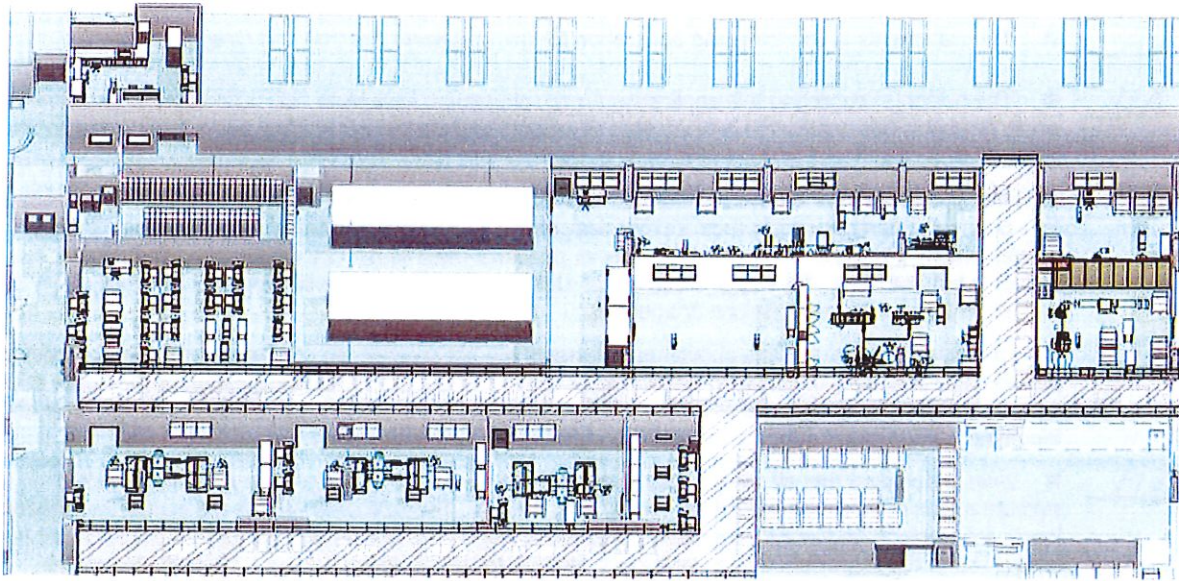
X ALEX HAIG  
Printed NameSp. Director, Engineering01/13/19

X

Printed Name

## Appendix

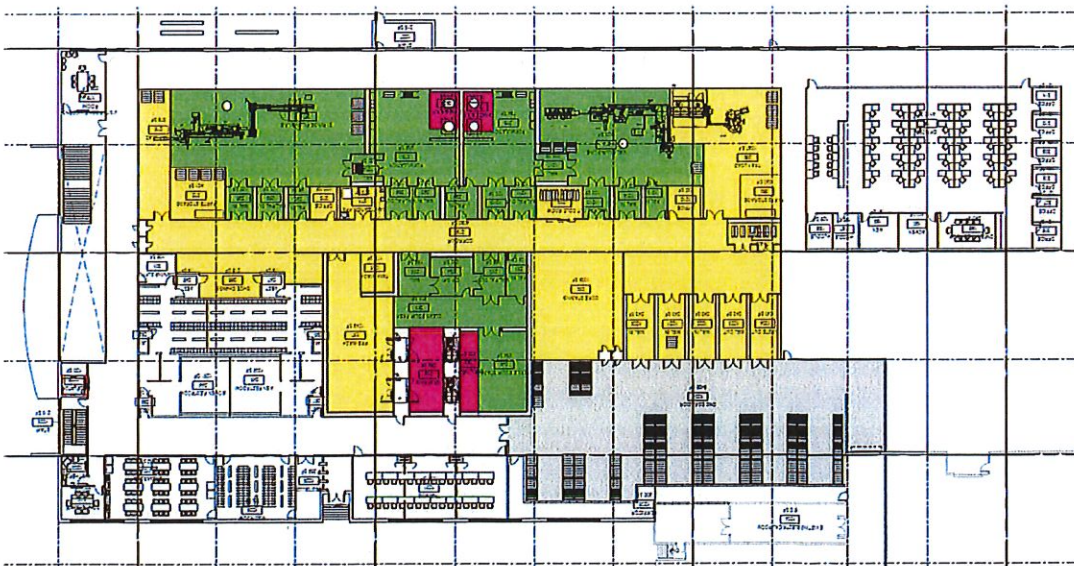
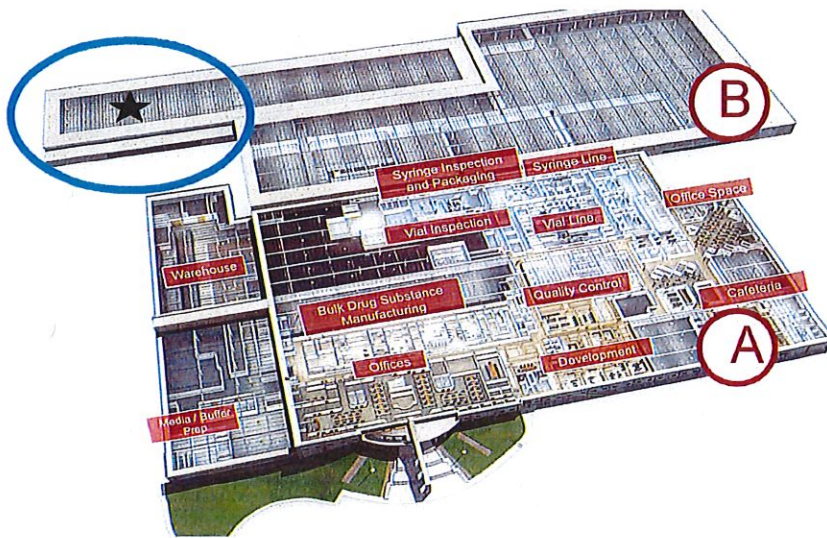
### Phase 1 – Packaging Expansion





## Phase 2 – Fill and Finish Expansion

### CONCEPTUAL DESIGN RENDERINGS:





# STATEMENT OF BENEFITS REAL ESTATE IMPROVEMENTS

State Form 51767 (R6 / 10-14)

Prescribed by the Department of Local Government Finance

20 19 PAY 20 20

FORM SB-1 / Real Property

## PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12-1-5.1.

This statement is being completed for real property that qualifies under the following Indiana Code (check one box):

- ☒ Redevelopment or rehabilitation of real estate improvements (IC 6-1.1-12.1-4)  
☐ Residentially distressed area (IC 6-1.1-12.1-4.1)

### INSTRUCTIONS:

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise, this statement must be submitted to the designating body **BEFORE** the redevelopment or rehabilitation of real property for which the person wishes to claim a deduction.
- The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the initiation of the redevelopment or rehabilitation for which the person desires to claim a deduction.
- To obtain a deduction, a Form 322/RE must be filed with the County Auditor before May 10 in the year in which the addition to assessed valuation is made or not later than thirty (30) days after the assessment notice is mailed to the property owner if it was mailed after April 10. A property owner who failed to file a deduction application within the prescribed deadline may file an application between March 1 and May 10 of a subsequent year.
- A property owner who files for the deduction must provide the County Auditor and designating body with a Form CF-1/Real Property. The Form CF-1/Real Property should be attached to the Form 322/RE when the deduction is first claimed and then updated annually for each year the deduction is applicable. IC 6-1.1-12.1-5.1(b)
- For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/Real Property that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. IC 6-1.1-12.1-17

SECTION 1		TAXPAYER INFORMATION			
Name of taxpayer <b>Catalent Indiana, LLC</b>					
Address of taxpayer (number and street, city, state, and ZIP code) <b>1300 South Patterson Drive, Bloomington, IN 47403</b>					
Name of contact person <b>Alexander Haig</b>		Telephone number <b>( 812 ) 340-5147</b>		E-mail address <b>alexander.haig@catalent.com</b>	
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT			
Name of designating body <b>City of Bloomington Common Council</b>		Resolution number			
Location of property <b>1300 South Patterson Drive, Bloomington, IN 47403</b>		County <b>Monroe</b>		DLGF taxing district number <b>009-Perry</b>	
Description of real property improvements, redevelopment, or rehabilitation (use additional sheets if necessary) <b>The project is comprised of two phases. Phase 1 is aimed to expand packaging capacity and add new capabilities to support specialized device assembly for biological products produced within the site by 2020. Phase 2 is to expand drug product sterile filling capacity by 2022 to support clinical business and commercial launches.</b>				Estimated start date (month, day, year) <b>June, 1, 2019</b>	
				Estimated completion date (month, day, year) <b>November, 31, 2021</b>	
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT			
Current number <b>839.00</b>	Salaries <b>\$43,926,000.00</b>	Number retained <b>839.00</b>	Salaries <b>\$43,926,000.00</b>	Number additional <b>200.00</b>	Salaries <b>\$13,312,000.00</b>
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT			
		REAL ESTATE IMPROVEMENTS			
		COST		ASSESSED VALUE	
Current values				43,828,800.00	
Plus estimated values of proposed project		40,000,000.00		10,000,000.00	
Less values of any property being replaced					
Net estimated values upon completion of project				53,828,800.00	
SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER			
Estimated solid waste converted (pounds) <b>0.00</b>		Estimated hazardous waste converted (pounds) <b>0.00</b>			
Other benefits The projects will employ green building standards according to Leadership in Energy and Environmental Design (LEED). The goal is to decrease overall energy consumption by 15%. Employees receive the following benefits: Health insurance, dental insurance, vision insurance, life insurance, disability insurance, 401(k) with employer match, and an educational assistance program. The comprehensive benefits package provided to employees is valued at approximately \$10.00 per hour.					
SECTION 6		TAXPAYER CERTIFICATION			
I hereby certify that the representations in this statement are true.					
Signature of authorized representative 				Date signed (month, day, year) <b>01/13/2019</b>	
Printed name of authorized representative <b>ALEX HAIG</b>				Title <b>Sr. Director, Engineering</b>	



# FOR USE OF THE DESIGNATING BODY

We find that the applicant meets the general standards in the resolution adopted or to be adopted by this body. Said resolution, passed or to be passed under IC 6-1.1-12.1, provides for the following limitations:

- A. The designated area has been limited to a period of time not to exceed \_\_\_\_\_ calendar years\* (see below). The date this designation expires is \_\_\_\_\_.
- B. The type of deduction that is allowed in the designated area is limited to:
1. Redevelopment or rehabilitation of real estate improvements ☐ Yes ☐ No
  2. Residentially distressed areas ☐ Yes ☐ No
- C. The amount of the deduction applicable is limited to \$ \_\_\_\_\_.
- D. Other limitations or conditions (specify) \_\_\_\_\_
- E. Number of years allowed: ☐ Year 1 ☐ Year 2 ☐ Year 3 ☐ Year 4 ☐ Year 5 (\* see below)  
☐ Year 6 ☐ Year 7 ☐ Year 8 ☐ Year 9 ☐ Year 10
- F. For a statement of benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17?  
☐ Yes ☐ No  
 If yes, attach a copy of the abatement schedule to this form.  
 If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

We have also reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved (signature and title of authorized member of designating body)	Telephone number ( )	Date signed (month, day, year)
Printed name of authorized member of designating body	Name of designating body	
Attested by (signature and title of attester)	Printed name of attester	

\* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

- A. For residentially distressed areas where the Form SB-1/Real Property was approved prior to July 1, 2013, the deductions established in IC 6-1.1-12.1-4.1 remain in effect. The deduction period may not exceed five (5) years. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. The deduction period may not exceed ten (10) years. (See IC 6-1.1-12.1-17 below.)
- B. For the redevelopment or rehabilitation of real property where the Form SB-1/Real Property was approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. For a Form SB-1/Real Property that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. (See IC 6-1.1-12.1-17 below.)

## IC 6-1.1-12.1-17

### Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

- (1) The total amount of the taxpayer's investment in real and personal property.
  - (2) The number of new full-time equivalent jobs created.
  - (3) The average wage of the new employees compared to the state minimum wage.
  - (4) The infrastructure requirements for the taxpayer's investment.
- (b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.
- (c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



# STATEMENT OF BENEFITS PERSONAL PROPERTY

State Form 51764 (R4 / 11-15)

Prescribed by the Department of Local Government Finance

FORM SB-1 / PP

## PRIVACY NOTICE

Any information concerning the cost of the property and specific salaries paid to individual employees by the property owner is confidential per IC 6-1.1-12.1-5.1.

### INSTRUCTIONS

- This statement must be submitted to the body designating the Economic Revitalization Area prior to the public hearing if the designating body requires information from the applicant in making its decision about whether to designate an Economic Revitalization Area. Otherwise this statement must be submitted to the designating body **BEFORE** a person installs the new manufacturing equipment and/or research and development equipment, and/or logistical distribution equipment and/or information technology equipment for which the person wishes to claim a deduction.
- The statement of benefits form must be submitted to the designating body and the area designated an economic revitalization area before the installation of qualifying abatable equipment for which the person desires to claim a deduction.
- To obtain a deduction, a person must file a certified deduction schedule with the person's personal property return on a certified deduction schedule (Form 103-ERA) with the township assessor of the township where the property is situated or with the county assessor if there is no township assessor for the township. The 103-ERA must be filed between January 1 and May 15 of the assessment year in which new manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment is installed and fully functional, unless a filing extension has been obtained. A person who obtains a filing extension must file the form between January 1 and the extended due date of that year.
- Property owners whose Statement of Benefits was approved, must submit Form CF-1/PP annually to show compliance with the Statement of Benefits. (IC 6-1.1-12.1-5.6)
- For a Form SB-1/PP that is approved after June 30, 2013, the designating body is required to establish an abatement schedule for each deduction allowed. For a Form SB-1/PP that is approved prior to July 1, 2013, the abatement schedule approved by the designating body remains in effect. (IC 6-1.1-12.1-17)

SECTION 1		TAXPAYER INFORMATION		
Name of taxpayer	Catalent Indiana, LLC	Name of contact person	Alexander Haig	
Address of taxpayer (number and street, city, state, and ZIP code)		Telephone number		
1300 South Patterson Drive, Bloomington, IN 47403		( 812 ) 340-5147		
SECTION 2		LOCATION AND DESCRIPTION OF PROPOSED PROJECT		
Name of designating body		Resolution number (s)		
City of Bloomington Common Council				
Location of property	County	DLGF taxing district number		
1300 South Patterson Drive, Bloomington, IN 47403	Monroe	009-Perry City		
Description of manufacturing equipment and/or research and development equipment and/or logistical distribution equipment and/or information technology equipment. (Use additional sheets if necessary.)  The project is comprised of two phases. Phase 1 is aimed to expand packaging capacity and add new capabilities to support specialized device assembly for biological products produced within the site by 2020. Phase 2 is to expand drug product sterile filling capacity by 2022 to support clinical business and commercial launches.		ESTIMATED		
		START DATE	COMPLETION DATE	
		Manufacturing Equipment	06/01/2019 11/30/2021	
		R & D Equipment		
		Logist Dist Equipment		
IT Equipment				
SECTION 3		ESTIMATE OF EMPLOYEES AND SALARIES AS RESULT OF PROPOSED PROJECT		
Current number	Salaries	Number retained	Salaries	
839	\$43,926,000	839	\$43,926,000	
		Number additional	Salaries	
		200	\$13,312,000	
SECTION 4		ESTIMATED TOTAL COST AND VALUE OF PROPOSED PROJECT		
NOTE: Pursuant to IC 6-1.1-12.1-5.1 (d) (2) the COST of the property is confidential.	MANUFACTURING EQUIPMENT		R & D EQUIPMENT	
	COST	ASSESSED VALUE	COST	ASSESSED VALUE
Current values		55,376,790		
Plus estimated values of proposed project	85,000,000	34,000,000		
Less values of any property being replaced				
Net estimated values upon completion of project		89,376,790		
SECTION 5		WASTE CONVERTED AND OTHER BENEFITS PROMISED BY THE TAXPAYER		
Estimated solid waste converted (pounds) 0.00		Estimated hazardous waste converted (pounds) 0.00		
Other benefits: Employees receive the following benefits: Health insurance, dental insurance, vision insurance, disability insurance, 401(k) with employer match, and an educational assistance program valued at approximately \$10.00 hour.				
SECTION 6		TAXPAYER CERTIFICATION		
I hereby certify that the representations in this statement are true.				
Signature of authorized representative		Date signed (month, day, year)		
ALEX HAIG		01/13/2019		
Printed name of authorized representative		Title		
ALEX HAIG		Sr. Director, Engineering		

# FOR USE OF THE DESIGNATING BODY

We have reviewed our prior actions relating to the designation of this economic revitalization area and find that the applicant meets the general standards adopted in the resolution previously approved by this body. Said resolution, passed under IC 6-1.1-12.1-2.5, provides for the following limitations as authorized under IC 6-1.1-12.1-2.

A. The designated area has been limited to a period of time not to exceed \_\_\_\_\_ calendar years \* (see below). The date this designation expires is \_\_\_\_\_. *NOTE: This question addresses whether the resolution contains an expiration date for the designated area.*

B. The type of deduction that is allowed in the designated area is limited to:

- |  |  |   |
|--|--|---|
| 1. Installation of new manufacturing equipment;            | <input type="checkbox"/> Yes <input type="checkbox"/> No | <input type="checkbox"/> Enhanced Abatement per IC 6-1.1-12.1-18<br>Check box if an enhanced abatement was approved for one or more of these types. |
| 2. Installation of new research and development equipment; | <input type="checkbox"/> Yes <input type="checkbox"/> No |   |
| 3. Installation of new logistical distribution equipment.  | <input type="checkbox"/> Yes <input type="checkbox"/> No |   |
| 4. Installation of new information technology equipment;   | <input type="checkbox"/> Yes <input type="checkbox"/> No |   |

C. The amount of deduction applicable to new manufacturing equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. (One or both lines may be filled out to establish a limit, if desired.)

D. The amount of deduction applicable to new research and development equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. (One or both lines may be filled out to establish a limit, if desired.)

E. The amount of deduction applicable to new logistical distribution equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. (One or both lines may be filled out to establish a limit, if desired.)

F. The amount of deduction applicable to new information technology equipment is limited to \$ \_\_\_\_\_ cost with an assessed value of \$ \_\_\_\_\_. (One or both lines may be filled out to establish a limit, if desired.)

G. Other limitations or conditions (specify) \_\_\_\_\_

H. The deduction for new manufacturing equipment and/or new research and development equipment and/or new logistical distribution equipment and/or new information technology equipment installed and first claimed eligible for deduction is allowed for:

- |                                 |                                 |                                 |                                 |                                  |  |
|---------------------------------|---------------------------------|---------------------------------|---------------------------------|----------------------------------|--|
| <input type="checkbox"/> Year 1 | <input type="checkbox"/> Year 2 | <input type="checkbox"/> Year 3 | <input type="checkbox"/> Year 4 | <input type="checkbox"/> Year 5  | <input type="checkbox"/> Enhanced Abatement per IC 6-1.1-12.1-18<br>Number of years approved: _____<br>(Enter one to twenty (1-20) years; may not exceed twenty (20) years.) |
| <input type="checkbox"/> Year 6 | <input type="checkbox"/> Year 7 | <input type="checkbox"/> Year 8 | <input type="checkbox"/> Year 9 | <input type="checkbox"/> Year 10 |  |

I. For a Statement of Benefits approved after June 30, 2013, did this designating body adopt an abatement schedule per IC 6-1.1-12.1-17? ☐ Yes ☐ No  
If yes, attach a copy of the abatement schedule to this form.  
If no, the designating body is required to establish an abatement schedule before the deduction can be determined.

Also we have reviewed the information contained in the statement of benefits and find that the estimates and expectations are reasonable and have determined that the totality of benefits is sufficient to justify the deduction described above.

Approved by: (signature and title of authorized member of designating body)	Telephone number ( )	Date signed (month, day, year)
Printed name of authorized member of designating body	Name of designating body	
Attested by: (signature and title of attester)	Printed name of attester	

\* If the designating body limits the time period during which an area is an economic revitalization area, that limitation does not limit the length of time a taxpayer is entitled to receive a deduction to a number of years that is less than the number of years designated under IC 6-1.1-12.1-17.

## IC 6-1.1-12.1-17

### Abatement schedules

Sec. 17. (a) A designating body may provide to a business that is established in or relocated to a revitalization area and that receives a deduction under section 4 or 4.5 of this chapter an abatement schedule based on the following factors:

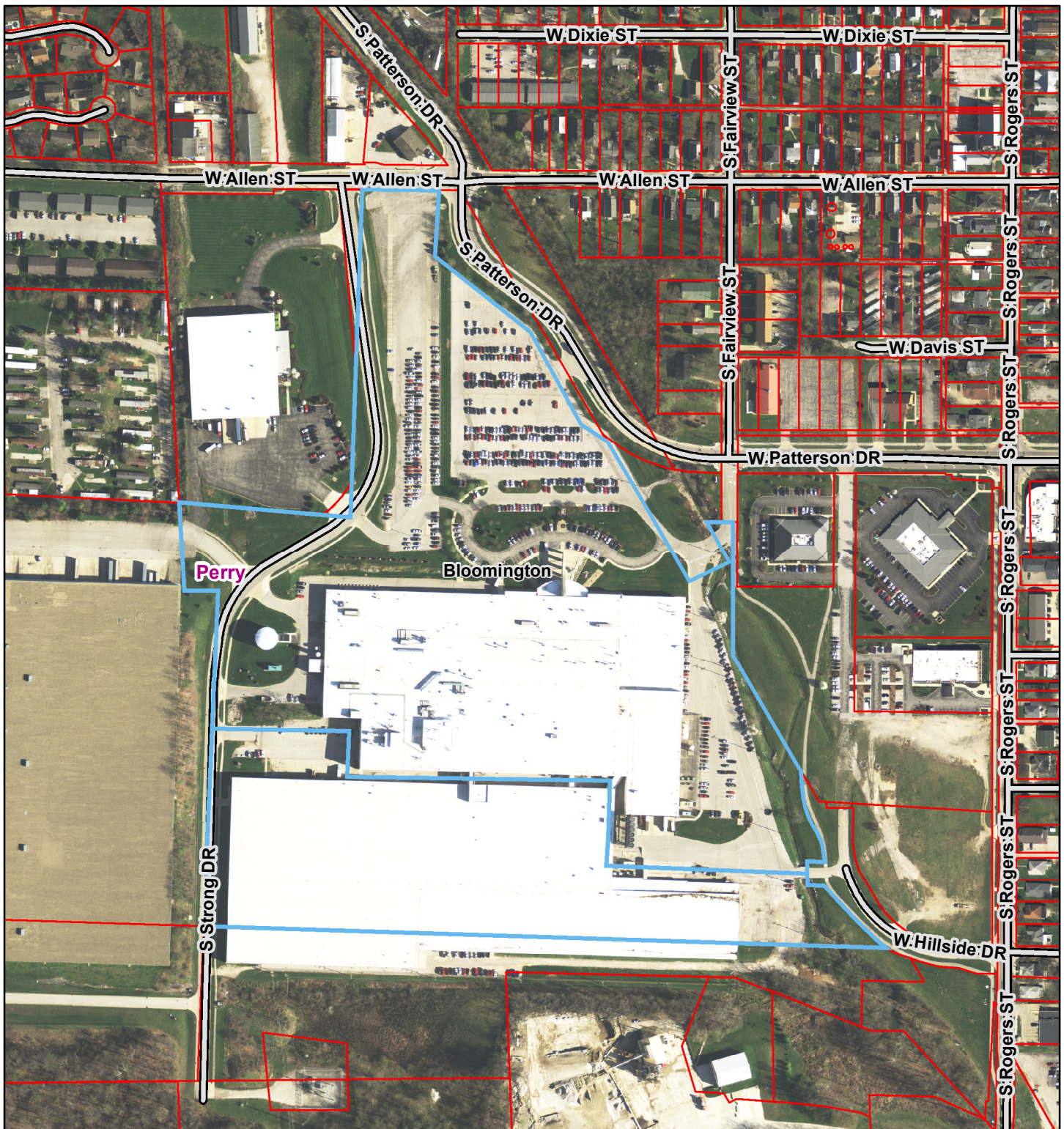
- (1) The total amount of the taxpayer's investment in real and personal property.
- (2) The number of new full-time equivalent jobs created.
- (3) The average wage of the new employees compared to the state minimum wage.
- (4) The infrastructure requirements for the taxpayer's investment.

(b) This subsection applies to a statement of benefits approved after June 30, 2013. A designating body shall establish an abatement schedule for each deduction allowed under this chapter. An abatement schedule must specify the percentage amount of the deduction for each year of the deduction. An abatement schedule may not exceed ten (10) years.

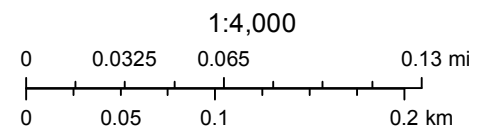
(c) An abatement schedule approved for a particular taxpayer before July 1, 2013, remains in effect until the abatement schedule expires under the terms of the resolution approving the taxpayer's statement of benefits.



# Catalent Indiana Parcel Outline



Parcel # 53-08-05-400-032.000-009



External Blue Line Delineates Parcel Boundary



**RESOLUTION 19-01  
OF THE  
ECONOMIC DEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**TO EXTEND AN ECONOMIC REVITALIZATION AREA DESIGNATION**

**WHEREAS**, Indiana Code § 6-1.1-12.1-1 specifies that the Common Council may designate an economic revitalization area after a favorable recommendation by the Economic Development Commission; and

**WHEREAS**, Catalent Indiana, LLC has submitted an application in which it seeks to renovate property at 1300 S. Patterson Drive, including Monroe County Parcel Number 53-08-05-400-032.000-009, which has already been designated as an Economic Revitalization Area by Bloomington Common Council Resolution 15-06; and

**WHEREAS**, the Economic Development Commission of the City of Bloomington, Indiana held a meeting on January 16, 2019 to consider Catalent Indiana, LLC's application; and

**WHEREAS**, the Economic Development Commission of the City of Bloomington, Indiana, has determined that the application falls within the statutory qualifications in Indiana Code § 6.1.1-12.1-1 and has voted to extend the designation through December 31, 2033;

**NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON THAT:**

The Economic Development Commission of the City of Bloomington, Indiana recommends to the Common Council of the City of Bloomington that the application for the above-referenced location to be designated as an economic revitalization area is approved.

**APPROVED** this day of January 16, 2019.



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Kurt Zorn, President  
Bloomington Economic Development Commission



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Malcolm Webb, Secretary  
Bloomington Economic Development Commission

**RESOLUTION 19-02  
OF THE  
ECONOMIC DEVELOPMENT COMMISSION  
OF THE  
CITY OF BLOOMINGTON, INDIANA**

**WHEREAS**, the Economic Development Commission of the City of Bloomington, Indiana, recognizes the need to stimulate growth and to maintain a sound economy within the corporate limits of the City of Bloomington, Indiana; and

**WHEREAS**, Indiana Code § 6-1.1-12.1-1 *et seq.* provides for the designation of “Economic Revitalization Areas” (“ERA”) within which property taxes may be abated on improvements to real estate and within which property taxes may be abated on personal property; and

**WHEREAS**, in addition to ERA designation, an applicant for tax abatement must receive the Common Council’s approval of the Statement of Benefits regarding the proposed project; and

**WHEREAS**, the Common Council of the City of Bloomington—in Ordinance 97-06—gave the Economic Development Commission the responsibility for making recommendations to the Council regarding requests for tax abatement; and

**WHEREAS**, the Common Council of the City of Bloomington—in Resolution 11-01—adopted Tax Abatement General Standards that established the standards to be used in finding an area to be an ERA; and

**WHEREAS**, Catalent Indiana, LLC, (“Petitioner”) proposes a project on one (1) parcel at 1300 S. Patterson Drive (“Project”); and

**WHEREAS**, Petitioner’s Application includes two Statements of Benefits – one for real property improvements and one for personal property improvements; and

**WHEREAS**, the Economic Development Commission of the City of Bloomington, Indiana, has met and considered Petitioner’s Application and Statements of Benefits, and recommends a ten-year tax abatement on the proposed real estate and personal property improvements;

**NOW, THEREFORE, BE IT RESOLVED BY THE ECONOMIC DEVELOPMENT COMMISSION OF THE CITY OF BLOOMINGTON THAT:**

The following recommendations are made to the Common Council of the City of Bloomington, Indiana:

1. The current designation of Monroe County Parcel Number 53-08-05-200-044.000-009 as an Economic Revitalization Area be extended through December 31, 2033.
2. Petitioner’s two Statements of Benefits regarding the Project at 1300 S. Patterson Drive facility be approved, including a ten-year tax abatement with the following deduction schedule:

Year 1	100%
Year 2	95%
Year 3	80%
Year 4	65%

Year 5	50%
Year 6	40%
Year 7	30%
Year 8	20%
Year 9	10%
Year 10	5%

**APPROVED** this 16th day of January, 2019.



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Kurt Zorn, President  
Bloomington Economic Development Commission



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Malcolm Webb, Secretary  
Bloomington Economic Development Commission

## **City of Bloomington Tax Abatement Program: General Standards**

This document sets forth the General Standards under which the City of Bloomington may authorize deductions on the rehabilitation of real and personal property (also known as tax abatement), as allowed under Indiana law.

### **Program Description:**

The City of Bloomington recognizes tax abatement as a useful economic development tool which can be implemented to improve the overall economic lives of citizens and to aid in achieving the Administration's vision of a strong and diverse economy, with an eye toward sustainability and balance. City of Bloomington tax abatements allow taxes on real estate improvements or eligible equipment installation to be phased in over a period of time, thus promoting new business and agencies and initiatives that improve the overall quality of life in our community. New construction, rehabilitation of existing buildings or installation of eligible equipment within designated ERAs receives tax abatement through a reduced assessed valuation on those improvements over a specified period of time.

Indiana Law (I.C. 6-1.1-12.1) allows up to ten year abatement on the increased assessed valuation due to construction or rehabilitation improvements in the areas of the city where development needs to be encouraged. I.C. 6-1.1-12.1 also allows a one- to ten-year abatement on "new manufacturing equipment." The equipment must be used in "the direct production, manufacture, fabrication, assembly, extraction, mining, processing, refining or finishing or other tangible personal property; and never before used by its owner for any purpose in Indiana." Further, "enterprise information technology equipment" purchased after June 30, 2009 may also be eligible for abatement if the project is approved prior to January 1, 2013. See IC 6-1.1-10-44 for the statutory definitions of "enterprise information technology equipment" and eligibility requirements.

The rate at which the new assessed valuation will be phased in for approved abatements is set forth by Indiana law (I.C. 6-1.1-12.1-3 for real property; I.C. 6-1.1-12.1-4.5 for eligible equipment or personal property). The City of Bloomington Economic Development Commission shall recommend a term of abatement for each project, which shall be authorized by the City Council in the process outlined below and allowed for by Indiana law. With respect to new construction and personal property, the City Council may choose to limit the dollar amount of the deduction that will be allowed.

### **Project Eligibility:**

In order for a project to be eligible for tax abatement, the area in which it is located must be designated as an Economic Revitalization Area (ERA) by the City of Bloomington. Decisions to designate areas as ERAs are determined on a project-by-project basis for any project located within the corporate limits of the City of Bloomington.



An Economic Revitalization Area (ERA) must have "...become undesirable for or impossible of, normal development and occupancy," because of such factors as "a lack of development, cessation of growth, deterioration of improvements or character of occupancy, age, obsolescence, substandard buildings, or other factors which have impaired values or prevent a normal development of property or use of property," and "includes any area where a facility or a group of facilities that are technologically, economically, or energy obsolete are located and where the obsolescence may lead to a decline in employment and tax revenues." (IC 6-1.1-12.1-1)

**Review Criteria:**

Each project is reviewed on its own merits, and the effect of each project on the revitalization of the surrounding areas and employment is considered. Basic eligibility is achieved through demonstrating the following:

- Creation of full-time, permanent living-wage jobs<sup>1</sup>
- Creation of capital investment as an enhancement to the tax base

In addition, other qualifying and evaluative criteria will be considered. The following page provides a general list of such criteria and their definitions. It is intended to be neither exhaustive nor definitive, and applicants are encouraged to submit proposals of projects that may not be found on this list but make a significant positive contribution to overall economic vitality and quality of life in the City of Bloomington.

Projects must be in accordance with the current City of Bloomington Unified Development Ordinance (UDO) and should be located within current areas of economic development focus.

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<sup>1</sup> In accordance with Chapter 2.28 (Bloomington Living Wage Ordinance) of the City of Bloomington Municipal Code.

**Additional Evaluative Criteria:**

In addition to the creation of full-time, living wage employment and capital investment enhancements to the tax base, other evaluative criteria will be considered in the review of tax abatement applications, outlined below. This list is neither exhaustive nor definitive, and applicants are encouraged to submit proposals of projects that may not be found on this list but make a significant positive contribution to overall economic vitality and quality of life in the City of Bloomington.

<b>Criteria</b>	<b>Definition</b>
<b>Quality of Life and Environmental/Sustainability</b>	A project which is consistent with or advances principles found in the Redefining Prosperity report (2009); and/or a project which results in responsible sustainable development; and/or a project that results in environmental remediation or protection which makes a positive contribution to the overall quality of life within the City of Bloomington.
<b>Affordable Housing</b>	Residential developments with a recorded restriction that requires the housing for a certain number of years to be rented or owned by qualified very low and low-income households are considered affordable housing. Projects of this nature may be directed toward specified individuals, for example, first-time homebuyers and persons with disabilities.
<b>Community Service</b>	Volunteerism and civic engagement, such as serving on and working with boards, commissions and foundations, in the Bloomington community.
<b>Community Character</b>	A project that preserves and/or enhances the unique character of the city of Bloomington.

*A list of examples for all criteria is provided in Appendix 1.*

### **Ineligible Projects:**

Facilities as listed in Indiana Code 6-1.1-12.1-3 are ineligible. Some facilities which are generally prohibited under this law (such as retail or residential) may be eligible to apply under these General Standards for abatement if the area of the project is designated by the City Council as an Economic Development Target Area (EDTA), as allowed by I.C. 6-1.1-12.1-7.

Other factors which may render a project ineligible for designation by the City of Bloomington include the following:

- A building permit has been obtained or construction has been initiated prior to final approval.
- The petitioner holds outstanding obligation or debt to the City which is in default or arrears, or is currently in litigation with the City.
- The project involves the demolition or removal of structures that are listed on the local Historic Register, that are eligible for individual listing on the National Historic Register or that are contributing structures within a nationally or locally designated historic district.
- The project requires major public infrastructure improvements at additional cost to the City of Bloomington.
- The project is not consistent with the City's long-range plans for the area in question.

The City Council may void the tax abatement designation awarded to a project if the project has not been initiated within twelve (12) months of the date of the confirmatory resolution (final approval) of the tax abatement, or if the actual use is different than that approved.

### **Application Procedure and Review:**

IC 6-1.1-12.1 (et seq.) requires an applicant to file a Statement of Benefits. The Economic Development Commission shall develop and implement, with the City of Bloomington Economic & Sustainable Development Department, application and Commission review procedures to ensure consistency with Indiana statutory requirements as set forth in IC 6-1.1-12.1-1 and to fulfill the purpose of these General Standards.

Each application shall be reviewed by the Economic Development Commission and any other City commission as may be required by law. The Economic Development Commission shall make the final recommendation regarding designation to the City Council, based upon criteria in these General Standards and according to Indiana Code.

A non-refundable \$100.00 application fee shall be required for each application.

The Economic Development Commission's recommendation shall be submitted to the City Council, along with all application and supplementary documents as necessary for the designating body's review.

The City Council's determination of whether the area shall be designated as an Economic Revitalization Area shall be based on procedures and the following findings as set forth in Indiana Code (IC 6-1.1-12.1 *et seq.*):

- Whether the estimate of the value of the redevelopment or rehabilitation is reasonable for the projects of that nature.
- Whether the estimate of the number of individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Whether the estimate of the annual salaries of these individuals who will be employed or whose employment will be retained can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Whether any other benefits about which information was requested are benefits that can be reasonably expected to result from the proposed described redevelopment or rehabilitation.
- Whether the totality of the benefits is sufficient to justify the deduction.

If the City Council makes the above findings in the affirmative, it shall pass a declaratory resolution to designate an area an Economic Revitalization Area, approve a Statement of Benefits and authorize the term of abatement.

If the Council recommends designation of an ERA and approval thereof, the City Clerk shall:

- A. Certify a copy of the resolution and the application to the Monroe County Assessor and Auditor's Office;
- B. Publish a legal notice to inform interested parties that the tax abatement application is available for inspection at the Assessor's Office;
- C. Set a meeting date, at which time the Common Council shall hear all remonstrance and objections to the area being designated an "Economic Revitalization Area".

The Common Council shall subsequently hold a regular meeting and vote on a resolution confirming, modifying, or rescinding the earlier resolution recommending designation and approval.

**Memorandum of Agreement:**

Upon approval by the Common Council of a confirmatory resolution:

- A. The applicant will sign a Memorandum of Agreement with the City of Bloomington, thereby agreeing to all terms set forth by the Common Council approval and as required by the City of Bloomington.
- B. The City Clerk shall certify a copy of the confirming resolution and the application to the Applicant, the Monroe County Assessor and Auditor's Office.

### **Compliance Procedures and Annual Review:**

The Department of Economic & Sustainable Development will compile a yearly compliance report related to all active tax abatement projects to present to the Economic Development Commission. The Commission will forward the report to the City Council. The report will be based upon Compliance with Statement of Benefits Forms (CF-1s) as submitted by property owners receiving tax abatement. The annual compliance process for the property owner is set forth in IC 6-1.1-12.1-5.1 and additional terms may be set forth in the Memorandum of Agreement.

If the CF-1 is not filed, the benefits promised are not materialized, or other terms of the Memorandum of Agreement are not fulfilled, the Council may find the property owner not in Substantial Compliance as described below, and may act to rescind the remaining term of abatement, or enforce similar penalties as set forth in the Memorandum of Agreement.

### **Substantial Compliance Requirements:**

In addition to terms set forth in IC 6-1.1-12.1-5.9, the Memorandum of Agreement may set forth additional terms related to what may constitute substantial compliance or noncompliance.

Noncompliance occurs when the designating bodies (Economic Development Commission and City Council) determine that the property owner has not made reasonable efforts to comply with the Statement of Benefits. Noncompliance may not result from factors beyond the control of the property owner, such as declining demand for the owner's products or services. If factors beyond the property owner's control do not cause noncompliance, the termination of deduction procedure will be implemented as prescribed by IC 6-1.1-42-30.

Factors within the control of the property owner that may contribute to noncompliance may include, but are not limited to, the following:

- Failure to comply with any terms set forth in the Memorandum of Agreement;
- An incomplete, inaccurate, or missing CF-1;
- Petitioner vacates the city of Bloomington during the term of abatement;
- Fraud on the part of petitioner;
- Initiation of litigation with the City of Bloomington.

The City Council may void the tax abatement designation awarded to a project if the project has not been initiated within twelve (12) months of the date of the confirmatory resolution (final approval) of the tax abatement, or if the actual use is different than that approved.

## **Appendix 1:** **Project Eligibility Criteria Examples**

The following is a list of general examples. It is not intended to be exhaustive nor definitive. The Department of Economic and Sustainable Development will assist potential applicants with understanding project eligibility on a case-by-case basis.

-- **Job creation**

- Full-time, living-wage jobs are created for Bloomington residents – from new business or expansion of existing employee base
- Compensation may include wages and benefits such as childcare.

-- **Creation of capital investment as enhancement to the tax base**

- Projects that provide a major private infrastructure improvement paid by the developer
- Includes real property investment – new and existing buildings
- Includes eligible manufacturing and other eligible equipment

-- **Quality of Life and Environmental/Sustainability**

- Urban infill redevelopment and/or brownfield remediation<sup>1</sup>
- Green building according to “Leadership in Energy and Environmental Design” (LEED)<sup>2</sup> or other commonly accepted green building standards
- A business engaged in research and development of alternative energy production or other methods to build community resilience in a volatile energy market
- A social enterprise or business helping formerly incarcerated persons re-enter the workforce
- A business specializing in fine arts/crafts (bolstering the arts sector and assisting with diversifying the local economy).

-- **Affordable Housing**

- A housing development sets aside 50% of the units to be affordable (at, e.g., HUD Fair Market rent) for low income to moderate income individuals
- Housing units for workforce housing
- Housing stipulated for sale to first-time homebuyers
- Affordable housing with handicap-accessible units, and/or the units are designed for occupancy by senior citizens.

-- **Community Service**

- Volunteering labor, materials, money, or a combination of the three to charitable organizations and non-profit agencies that make a significant impact in Bloomington.
- Serving on boards, commissions, and/or foundations whose mission involves community service and the betterment of Bloomington.

-- **Community Character**

- Art space and art studio expansion and development
- Petitioner is a local home-grown business, headquartered in and/or unique to Bloomington
- Rehabilitation, preservation, and renovation of historic properties according to Secretary of the Interior Standards in consultation with the City Historic Preservation Officer.

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<sup>1</sup> By definition, a brownfield site is real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant (Public Law 107-118 (H.R. 2869) – “Small Business Liability Relief and Brownfields Revitalization act” – signed into law Jan. 11, 2002).

<sup>2</sup> [www.usgbc.org](http://www.usgbc.org)

## **Appendix 2:**

### **Excerpt from IC 6-1.1-12.1-5.9: Determination of substantial compliance with statement of benefits; notice of noncompliance; hearing; resolution; appeal**

- (a) This section does not apply to:
  - (1) a deduction under section 3 of this chapter for property located in a residentially distressed area; or
  - (2) any other deduction under section 3 or 4.5 of this chapter for which a statement of benefits was approved before July 1, 1991.
- (b) Not later than forty-five (45) days after receipt of the information described in section 5.1, 5.3(j), or 5.6 of this chapter, the designating body may determine whether the property owner has substantially complied with the statement of benefits approved under section 3, 4.5, or 4.8 of this chapter. If the designating body determines that the property owner has not substantially complied with the statement of benefits and that the failure to substantially comply was not caused by factors beyond the control of the property owner (such as declines in demand for the property owner's products or services), the designating body shall mail a written notice to the property owner. The written notice must include the following provisions:
  - (1) An explanation of the reasons for the designating body's determination.
  - (2) The date, time, and place of a hearing to be conducted by the designating body for the purpose of further considering the property owner's compliance with the statement of benefits. The date of the hearing may not be more than thirty (30) days after the date on which the notice is mailed.
- (c) On the date specified in the notice described in subsection (b)(2), the designating body shall conduct a hearing for the purpose of further considering the property owner's compliance with the statement of benefits. Based on the information presented at the hearing by the property owner and other interested parties, the designating body shall again determine whether the property owner has made reasonable efforts to substantially comply with the statement of benefits and whether any failure to substantially comply was caused by factors beyond the control of the property owner. If the designating body determines that the property owner has not made reasonable efforts to comply with the statement of benefits, the designating body shall adopt a resolution terminating the property owner's deduction under section 3, 4.5, or 4.8 of this chapter. If the designating body adopts such a resolution, the deduction does not apply to the next installment of property taxes owed by the property owner or to any subsequent installment of property taxes.
- (d) If the designating body adopts a resolution terminating a deduction under subsection (c), the designating body shall immediately mail a certified copy of the resolution to:
  - (1) the property owner;
  - (2) the county auditor; and
  - (3) the county assessor.

The county auditor shall remove the deduction from the tax duplicate and shall notify the county treasurer of the termination of the deduction. If the designating body's resolution is adopted after the county treasurer has mailed the statement required by IC 6-1.1-22-8.1, the county treasurer shall immediately mail the property owner a revised statement that reflects the termination of the deduction.
- (e) A property owner whose deduction is terminated by the designating body under this section may appeal the designating body's decision by filing a complaint in the office of the clerk of the circuit or superior court together with a bond conditioned to pay the costs of the appeal if the appeal is determined against the property owner. An appeal under this subsection shall be promptly heard by the court without a jury and determined within thirty (30) days after the time of the filing of the appeal. The court shall hear evidence on the appeal and may confirm the action of the designating body or sustain the appeal. The judgment of the court is final and conclusive unless an appeal is taken as in other civil actions.
- (f) If an appeal under subsection (e) is pending, the taxes resulting from the termination of the deduction are not due until after the appeal is finally adjudicated and the termination of the deduction is finally determined.

*As added by P.L.14-1991, SEC.6. Amended by P.L.90-2002, SEC.124; P.L.256-2003, SEC.7; P.L.193-2005, SEC.5; P.L.154-2006, SEC.30; P.L.3-2008, SEC.37; P.L.146-2008, SEC.128..*

In the Council Chambers of the Showers City Hall, Bloomington, Indiana on Wednesday, January 09, 2019 at 6:31pm with Council President Dorothy Granger presiding over the Organizational Meeting of the Common Council.	COMMON COUNCIL ORGANIZATIONAL MEETING January 9, 2019
Members Present: Ruff, Sturbaum, Chopra, Piedmont-Smith, Granger, Volan, Sandberg, Sims, Rollo Members Absent: None	ROLL CALL [6:31pm]
Council President Dorothy Granger gave a summary of the agenda.	AGENDA SUMMATION [6:32pm]
There were no minutes for approval.	APPROVAL OF MINUTES
Councilmember Dave Rollo spoke about the shutdown of the federal government.	REPORTS
Councilmember Jim Sims spoke about the founding of the Phi Beta Sigma fraternity.	<ul style="list-style-type: none"><li>COUNCIL MEMBERS [6:33pm]</li></ul>
Councilmember Steve Volan spoke about the importance of mobility and its effects on a range of other issues.	
Granger wished everyone a happy New Year and wished for peace in the coming year.	
Councilmember Isabel Piedmont-Smith thanked Granger for her service as Council President.	
Councilmember Allison Chopra noted that she would not seek reelection. She encouraged those dissatisfied with representation to run for office.	
Councilmember Chris Sturbaum spoke about the importance of truth and objective reality.	
There were no reports from the Mayor or City Offices.	<ul style="list-style-type: none"><li>The MAYOR AND CITY OFFICES [6:39pm]</li></ul>
There were no reports from Council Committees.	<ul style="list-style-type: none"><li>COUNCIL COMMITTEES</li></ul>
Greg Alexander spoke about parking and traffic concerns.	<ul style="list-style-type: none"><li>PUBLIC [6:53pm]</li></ul>
Daniel Bingham spoke about climate change.	
Mark Haggerty spoke about the need for representation in government.	
Piedmont-Smith and Sturbaum disclosed conflicts of interest related to <u>Resolution 19-02</u> . The disclosures were accepted by voice vote.	Disclosure of conflicts of interest



Chopra moved and it was seconded that the following slate of officers be elected:

ELECTION OF OFFICERS

President: **Dave Rollo**  
Vice President: **Dorothy Granger**  
Parliamentarian: **Steve Volan**

The slate of officers was approved by a voice vote.

The councilmembers took new seats as assigned by the new president. Council President Rollo presided for the remainder of the meeting and presented outgoing President Granger with a plaque to commemorate her term as president.

Rollo appointed the following councilmembers to the Jack Hopkins Social Services Funding Committee: **Chopra (Chair), Granger, Piedmont-Smith, Ruff, and Sandberg**

APPOINTMENTS TO BOARDS AND COMMISSIONS

Rollo appointed the following councilmembers to the Council Sidewalk Committee: **Granger (Chair), Rollo, Sims, and Sturbaum**

Rollo appointed the following councilmembers to the Council Land Use Committee: **Chopra, Piedmont-Smith, Sturbaum, Volan (Chair)**

Rollo noted that the Board and Commission Interview Committee assignments would remain the same:  
A-**Chopra, Sims, Sturbaum**  
B-**Granger, Volan, Ruff**  
C-**Piedmont-Smith, Rollo, Sandberg**

Volan moved and it was seconded that Council appointments to the following list of Boards and Commissions be approved:

Citizens Advisory Committee-Community Development Block Grants-Social Services **Sandberg**  
Citizens Advisory Committee- Community Development Block Grants-Physical Improvements **Ruff**  
Commission for Bloomington Downtown **Sturbaum**  
Economic Development Commission (City) **Rollo**  
Economic Development Commission (County) **Chopra**  
Environmental Resource Advisory Committee **Granger**  
Metropolitan Planning Organization **Ruff**  
Plan Commission **Sandberg**  
Solid Waste Management District **Piedmont-Smith**  
Board of the Urban Enterprise Association **Sturbaum**  
Utilities Services Board **Sims**  
Bloomington Economic Development Corporation **Sims**  
Bloomington Commission on Sustainability **Rollo**  
Parking Commission **Volan**  
Public Safety Local Income Tax Allocation Committee **Chopra, Granger, Piedmont- Smith, and Sims**

The motion was approved by voice vote.

Piedmont-Smith moved and it was seconded to reappoint Teddy Mower to the Commission on Sustainability, Gavin Everett to the Commission on Hispanic and Latino Affairs, Shawna Meyer-Niederman to the Commission on the Status of Children and Youth, George Hegeman to the Tree Commission, and Amanda Burnham to the Utilities Service Board.

The motion was approved by voice vote.

Sturbaum moved and it was seconded to appoint Matthew Cole to the Bloomington Urban Enterprise Association and to reappoint Alex Cartwright and Kent McDaniel to the Public Transportation Corporation, Jack Kahn to the Commission on Aging, Susie Hamilton and Diana Powell-Opata to the Housing Quality Appeals Board, and James Schultz to the Animal Control Commission.

The motion was approved by voice vote.

Granger moved and it was seconded to reappoint Mark Stosberg to the Bicycle and Pedestrian Safety Commission, Seth Debro to the Commission on the Status of Black Males, James Sanders to the Dr. Marth Luther King, Jr. Birthday Commission, and Lindsey Hummel to the Environmental Commission.

The motion was approved by voice vote.

Volan moved and it was seconded that Ordinance 19-01 be introduced and read by title and synopsis only. The motion was approved by voice vote. City Clerk Nicole Bolden read the legislation by title and synopsis.

Volan moved and it was seconded that Ordinance 19-03 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

## APPOINTMENTS TO BOARDS AND COMMISSIONS (*cont'd*)

### LEGISLATION FOR FIRST READING

Ordinance 19-01 An Ordinance to Amend Ordinance 18-18, Which Fixed the Salaries of Appointed Officers, Non-Union, and A.F.S.C.M.E. Employees for All the Departments of the City of Bloomington, Monroe County, Indiana For the Year 2019 – Re: To Reflect Changes Due to the Execution of a Work Agreement between the City of Bloomington and Local 2487 CBME, A.F.S.C. M.E. and also Changes Affecting Three Additional Job Titles

Ordinance 19-03 To Amend Title 8 of the Bloomington Municipal Code, Entitled “Historic Preservation and Protection” to Establish a Historic District – Re: The Maple Heights Conservation District (Maple Heights Neighborhood Association, Petitioner)

Volan moved and it was seconded that Ordinance 19-04 be introduced and read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Ordinance 19-04 To Amend Title 8 of the Bloomington Municipal Code, Entitled "Historic Preservation and Protection" to Establish a Historic District – Re: 1175 S. Smith Road Historic District (The Harvey-Nelson House) (James and Sally Harvey, Petitioner)

#### LEGISLATION FOR SECOND READING AND RESOLUTIONS

Volan moved and it was seconded that Ordinance 19-01 be introduced and considered for adoption at the same meeting and on the same night it was introduced.

Ordinance 19-01 An Ordinance to Amend Ordinance 18-18, Which Fixed the Salaries of Appointed Officers, Non-Union, and A.F.S.C.M.E. Employees for All the Departments of the City of Bloomington, Monroe County, Indiana For the Year 2019 – Re: To Reflect Changes Due to the Execution of a Work Agreement between the City of Bloomington and Local 2487 CBME, A.F.S.C.M.E. and also Changes Affecting Three Additional Job Titles

Piedmont-Smith explained the reason for introducing, discussing, and potentially voting on the matter on the same evening was so that the A.F.S.C.M.E. employees could receive recently negotiated pay increases with their first paycheck of 2019.

The motion received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Volan moved and it was seconded that Ordinance 19-01 be read by title and synopsis only. The motion was approved by voice vote. Bolden read the legislation by title and synopsis.

Caroline Shaw, Director of Human Resources, thanked the Council for accommodating the requested changes to the salary ordinance. She noted the changes to three job positions. She summarized the changes that would be made to the salary ordinance as a result of the recently executed agreement between the city and the local A.F.S.C.M.E union.

Chopra asked if all A.S.F.C.M.E. workers would be paid a living wage.

Council Questions:

Shaw stated they were already paid a living wage before the recent agreement.

Piedmont-Smith asked for more information about the contract ratification bonus.

Shaw said it new to Bloomington, but something that was not unusual for other contracts. She explained that anyone who was an A.F.S.C.M.E. employee for 2019 would receive a \$250 bonus.

Steve Robertson, President of Local 2487 A.F.S.C.M.E., said it was a one-time bonus for first year employees given on December 1.

Sims asked what the fiscal impact of the bonuses would be.

Shaw said she believed the bonuses would cost around \$40,000, assuming the same employees worked for the city in December.

Sims asked why the bonuses were included in the contract.

Shaw and Robertson said the bonuses were part of the negotiations between the city and the union.

Piedmont-Smith asked why a swing shift received more than a night shift and asked if that was typical. Ordinance 19-01 (cont'd)

Shaw said it had been that way for years and the pay rates had simply been adjusted accordingly.

Robertson said swing shift employees did not have set schedules, so there was less consistency.

Rollo asked about the long process for the contract negotiations.

Shaw reviewed the negotiation process. She said the city and the union had tried a new approach by taking a three-day retreat for the negotiations. She said the first contract had been voted down by the union membership, so a new one had to be negotiated, which took time.

Robertson said the retreat was a new experience, but was beneficial.

There was no public comment.

Public Comment:

Sandberg said everyone should be grateful for the individuals who provided the basic services in Bloomington.

Council Comment:

Sturbaum said it was nice to hear there was good faith negotiating and it showed that there could be good government.

Piedmont-Smith noted that the salary increases and increases for certifications were not included in the 2019 budget. She relayed information she had received from City Controller Jeff Underwood, who explained that the city would be able to pay for the increases through various sources.

Rollo noted that it was a long process and congratulated those involved.

Volan moved and it was seconded that Ordinance 19-01 be adopted. The motion to adopt Ordinance 19-01 received a roll call vote of Ayes: 9, Nays: 0, Abstain: 0.

Vote to adopt Ordinance 19-01.  
[7:42pm]

There was no additional public comment.

ADDITIONAL PUBLIC COMMENT

There were no changes to the council schedule.

COUNCIL SCHEDULE [7:43pm]

The meeting was adjourned at 7:44pm.

ADJOURNMENT

APPROVED by the Common Council of the City of Bloomington, Monroe County, Indiana upon this \_\_\_\_ day of \_\_\_\_\_, 2019.

APPROVE:

ATTEST:

\_\_\_\_\_  
Dave Rollo, PRESIDENT  
Bloomington Common Council

\_\_\_\_\_  
Nicole Bolden, CLERK  
City of Bloomington